



**BEFORE THE VIDYUT OMBUDSMAN
Andhra Pradesh :: Hyderabad**

:: Present ::

C. Ramakrishna

Date: 19-06-2015

Appeal No. 103 of 2014

Between

Sri. Nadimpalli Kanaka Raju, S/o. Satyanarayana Raju, D.No. 3-2-28/1, Puthineduvari Street, Subbarao peta, Tadepalligudem, West Godavari District - 534 101

... Appellant

And

1. The AAO/ERO/Tadepalligudem/West Godavari District
2. The ADE/Operation/Tadepalligudem/West Godavari District
3. The DE/Operation/Tadepalligudem/West Godavari District

... Respondents

The above appeal filed on 12-03-2015 has come up for final hearing before the Vidyut Ombudsman on 11-06-2015 at Eluru. The appellant, as well as the respondent ADE were present. Having considered the appeal, the written and oral submissions made by the appellant and the respondents, the Vidyut Ombudsman passed the following:

AWARD

2. The appeal arose out of the complaint of the consumer about not converting his agricultural service connection from paying to free. He further submitted that the respondents had not complied with the order of the CGRF issued in CG Nos. 9/2012 and

10/2012.

3. The appellant stated in his appeal that he and his brother (Sri. Prasada Raju) are having two agricultural service connections bearing numbers 4811 and 1796; that as the respondents had not been changing the service connections from paying to free, he had approached the CGRF; that in spite of the CGRF ordering for a change of the service connections from paying category to free category, the respondents had not acted on the Forum's order.

4. Notices were issued for hearing the matter. None of the respondents filed any written submissions in the matter. But during the course of the hearings, they did file a copy of the Government's policy dated 25-01-2005 to say that they are not bound to change the category of the consumers from paying to free in view of the fact that the consumers had violated the Government's policy of availing free agricultural power by growing paddy in the second crop.

5. The rival contentions were examined during the course of the hearings. The only question that needs to be decided in this case is whether or not the appellant and his brother are entitled for free power from August, 2009 -- the month in which they filed their claim for free power.

6. The appellant and his brother became successors to the service connections bearing numbers 4811 and 1796 respectively on account of division of property. The service connections were originally standing in the name of their father Sri. Satyanarayana Raju. Apparently, the service connections were in paying category as their father was an income tax assessee. The service connections were transferred in

the name of the appellant and his brother on 19-03-2009. The appellant and his brother were apparently not IT assesseees in the year 2009. Hence, they filed a claim on 17-08-2009 for free power supply saying that they are not IT assesseees. The respondents had not acted on the applications of the appellant and his brother. Thereupon, the appellant and his brother filed complaints in CG Nos. 9/2012-13 and 10/2012-13 before the CGRF. The CGRF had apparently given its orders holding that the conversion be done after due verification. Even then, as the respondents had not implemented the orders of the CGRF, they filed another complaint in CG No. 55/2013 before the CGRF. The CGRF had again reiterated its orders and directed that the orders issued in CG Nos. 9/2012-13 and 10/2012-13 be implemented duly verifying the facts. The respondents did not change the category of the appellant and his brother from paying to free on the ground that they are growing paddy in the second crop. During the course of the hearings, the appellant was asked whether or not he was growing paddy in the second crop. He submitted that sometimes it is done and that in some years it is not done. This is at best a feeble defence in support of his claim for free power. It is common knowledge that agricultural lands in and around Tadepalligudem are very fertile and growing second crop is quite common. Tadepalligudem being located in paddy belt, it is but natural to assume that paddy is grown in the second crop. As the respondents have been consistently refusing to change the category from paying to free, the course that ought to have been adopted by the appellant and his brother is filing of a foolproof claim along with all documentary evidence like certified copies of adangal to prove that they have not grown paddy in the second crop. Instead of filing such a foolproof claim, approaching the CGRF repeatedly and filing an appeal before this authority without the backing of any evidence to show that he and his brother have not been growing paddy in the second crop is a futile exercise.

7. A perusal of the Government's policy dated 25-01-2005 shows that farmers who grow paddy in the second crop are not eligible for free power supply and that those who do shall be charged tariff at the rate of Rs. 0.20 ps per unit or equivalent flat rate tariff. This is what was given in the year 2005. As the appellant and his brother are claiming free power from the year 2009 onwards, the position as obtaining in the year 2009-2010 needs to be observed. An extract of the relevant year's tariff order is given below:

LT CATEGORY - V(B) - AGRICULTURAL

Out of Turn Allotment - Tatkal scheme with DSM measures	:	Energy Charge 20paise/unit
--	---	-------------------------------

Note:

1. Agricultural consumers are permitted to use 1 or 3 lamps of 5 watts each near the main switch as pilot lamp/s.
2. Supply to the L.T. Agricultural services will be suitably regulated as notified by Licensee from time to time.
3. Customer charges of Rs.20/- per month per service in terms of Part 'C' of the tariff shall be payable by all Agricultural Consumers.
4. The Farmers eligible for free supply under Dry Land as well as Wet Lands have to comply with the following Demand Side Management measures (DSM) as applicable for his pumping system viz., submersible and surface pump sets in which they shall not be eligible for free supply.
5. DSM measures include frictionless foot valve, capacitor of adequate rating, HDPE or RPVC piping at suction and/or delivery and ISI marked monobloc or submersible pump sets.
6. Farmers in dry land areas shall not be eligible for free supply if they grow Paddy in second crop.
7. All new connections shall be given only with DSM measures implemented and with meters.

8. A perusal of the tariff order extracted above makes it clear that those of the farmers who are growing paddy in the second crop are not eligible for free supply. The Hon'ble Commission being the sole authority in so far as fixation of tariff is concerned, had laid the condition stated above. There is no evidence whatsoever that the Government of AP had brought in any change to this position by exercising its policy

making power in the year 2009. In other words, the Government had not qualified that those who grow paddy in the second crop will be subjected to a tariff like tatkal, as it did in the year 2005. In the absence of such a policy, what the Hon'ble Commission had laid in its tariff order becomes absolutely operable and a consumer who grows paddy in the second crop becomes disentitled for free power. Being a claimant for free power, it is for him to prove that he had not grown paddy in the second crop and lay a claim for free power for that year. If and when such a substantiated claim is filed, the DISCOM can make a verification of the claim and then decide to give free power. As the appellant and his brother had not filed such substantiated claims, their grievance that their service connections are not converted from paying category to free category cannot be countenanced.

9. Therefore, the appeal of the consumer fails and is dismissed. The consumer appellant and his brother are liable to pay the outstanding amounts against their service connections.

10. Coming to the CGRF's order, there is nothing wrong with the CGRF's order. It only directed that a due verification of the claim being made by the consumer be taken up and then only free power extended. As the consumer had not filed a substantiated claim, the DISCOM was well within its rights to refuse free supply to the consumer.

11. It is made clear that the appellant can always file a substantiated claim in future for free power and the DISCOM is entitled to verify such claims and take appropriate action accordingly.

12. This order is corrected and signed on this 19th day of June, 2015.

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

VIDYUT OMBUDSMAN

To

1. Sri. Nadimpalli Kanaka Raju, S/o. Satyanarayana Raju, D.No. 3-2-28/1,
Puthineduvari Street, Subbarao peta, Tadepalligudem, West Godavari
District -
2. The Assistant Accounts Officer, ERO, Tadepalligudem, West Godavari
District - 534 112
3. The Assistant Divisional Engineer, Operation, Tadepalligudem, West
Godavari District - 534 112
4. The Divisional Engineer, Operation, Tadepalligudem, West Godavari
District - 534 112

Copy to:

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