



BEFORE THE VIDYUT OMBUDSMAN
Andhra Pradesh :: Hyderabad

:: Present ::

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

Date: 28.02.2017

Appeal/Representation No. 22 of 2016

Between

M/s Sri Kanaka Maha Lakshmi Wire Drawing Works, Smt Penta Dhana Lakshmi, W/o
P. Nageswara Rao, Relli Street, Main Road, Kasibugga, Srikakulam.

... Complainant

And

1. The ADE/Operation/APEPDCL/PALASA/Srikakulam
2. The DE/Operation/APEPDCL/TEKKALI/Srikakulam
3. The SAO/Operation/APEPDCL/Srikakulam/Srikakulam
4. The SE/Operation/APEPDCL/Srikakulam/Srikakulam

... Respondents

The above appeal-representation filed on 01-08-2016 has come up for final hearing before the Vidyut Ombudsman on 08.02.2016 at Visakapatnam. The complainant, as well as the respondents 1 to 3 above was present. Having considered the appeal, the written and oral submissions made by the complainant and the respondents, the Vidyut Ombudsman passed the following:

AWARD

1. This appeal-representation has been preferred by the complainant against the order **dated.11-07-2016 in C.G.NO:513/2015-16, Srikakulam 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 chairperson of the above Forum allowed the complaint and set aside the order of the licensee dated.29.07.2011 with an observation that the respondents totally ignored the clause 5.9.2.1 of General Terms and conditions of supply-2006 and a direction to the respondents to fulfil the

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condition laid down in the above clause while the remaining two members of the Forum passed the order (majority decision) dismissing the complainant with a direction to the complainant to pay Rs.31,97,228/ being unconnected minimum (UCM) charges from 11/2011 to 04/2015.

2. The case of the complainant as per its complaint dated 21.10.2015 is that it applied for high tension Category-I service with 120 KVA CMD on 02/10/2010 after paying necessary charges on 5.4.2011, that the third respondent sent a demand notice for Rs.1,26,063/ on 26.01.2012 stating that the work was completed on 25.07.2011 and that the 3 months period expired by 25.10.2011, that a notice to the third respondent as well registered legal notices to some of the respondents was given contending that the work by the licensee was not completed, and that without resolving the issue, the third respondent has been going on issuing demand notices and as such, the complaint is filed.

3. The case of the respondents is that the fourth respondent issued a notice dated.29.07.2011 to the complainant informing that the execution of work for release of service connection had been completed on 25.07.2011 and that unconnected minimum charges would be billed if the electrical supply was not availed within three months from 25.07.2011, that after three months period, a demand notice dated.26.11.2011 for Rs.42,021/- was issued, that though the periodical notices were being sent, yet, the consumer had been refusing to receive them for the reasons best known to the complainant, that a regular notice was issued to the consumer for payment of Rs.1,26,063/ for the period from 11/2011 to 1/2012 for which the complaint-consumer addressed a letter dated.6.3.2012 stating that the field officers of the department had not completed the work with respect to the installation of HT metering equipment etc., as per estimation of line service charges and as such, issuing notices is not proper and correct, that the fourth respondent in his reply letter dated.16.03.2012 reiterated the same facts and requested the consumer to contact the second respondent for further clarification regarding completion of departmental works etc., as it is a technical matter, that as per clause 5.9.2.1 of General Terms and Conditions of supply-2006,



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the consumer is liable to pay the amount claimed, that the complainant, without paying any amount, filed C.C No.67/2014 before the District Consumer Forum, Srikakulam and filed the present case after withdrawing C.C.No.67/2014, that after making enquiry with the department people and the contractor and after verification of documents, it was found that execution of work was commenced on 13.07.2011 and completed on 25.10.2011, that the contractor stated that the work done from 13.7.2011 is only for less amount and that she did not claim the bill up to 2.8.2014 due to non-availability of works and she received the payment on 18.8.2014, that the latest UCM demand notice has been issued for Rs. 27,34,413/ being UCM charges from 11/2011 to 10/2015, that the work on behalf of complainant was not completed and the CEIG approval certificate was not obtained by the consumer, that metering arrangement would be fixed at the time of release of supply and that therefore, the complainant may be dismissed. (It appears the CGRF dismissed the earlier complaint in C.G.NO.160/2015 filed by the complainant herein with an observation that it has no jurisdiction because C.C.No.67/2014 was pending before the District consumer Forum, Srikakulam. So, the above C.C.67/2014 had been withdrawn and the present case was filed.)

4. It appears statements of some witnesses were recorded. The order does not disclose as to any document being marked as an exhibit for evidential purpose. After considering the material available on the record, decision was given by the chair- person as well as members (majority decision) separately as stated supra. Not satisfied with the above majority decision, the complainant preferred this representation.

5. The complainant submitted that poles were not erected in the premises of the consumer, that CTPT equipment was not erected and AB Switch was not installed by the department people of the licensee before the date of issuing the notice dated 26-11-2011, that the case of the respondent that the work was commenced and completed within 12 days from 13-07-2011 to 25-07-2011 is highly unbelievable and improbable, that the delay in disposal of this case by the CGRF and the Ombudsman is a cause to accumulate huge



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amount shown as due to the licensee from the consumer, that my predecessor directed the consumer orally to pay UCM charges for only two years and that therefore, the consumer is prepared to pay UCM Charges for two years provided electricity connection is released by the licensee to the premises of the complainant. The complainant supported the decision rendered by the chair-person.

6. The respondents submitted that the line poles were erected and that my predecessor told the complainant that some concession in the amount due would be given if the complainant comes forward to avail supply after erecting machinery and transformer and furnishing CEIG approval. They also submitted that furnishing CEIG approval is not necessary and it is recently relaxed. They supported the decision rendered by the two members of the Forum.

7. As the complaint was filed while the Regulation No.1/2004 was in force, **the following point is framed for consideration:**

Whether the complaint is fit and proper for being considered?

8.Point: At the outset, I would like to say that the complainant did not get any benefit from the respondents so far and that the respondents did not sustain any considerable monetary loss because of the action or inaction of the complainant. The Sub -clause 3 of the Clause 12 of the Regulation No. 1/2004 says that this authority shall decide the matter on the pleadings of the parties. The plea of the complainant is that the work to be done by the licensee for releasing connection was not completed before the issuance of notice dated.26.11.2011 claiming unconnected minimum(UCM) charges while the case of the respondents is that the work was completed on 25.07.2011. Except the main submission made on behalf of both sides touching the disputed fact whether the work was completed or not, the remaining submissions need no detailed demonstration. Now, the above stated main submission is being considered. It is for the respondents being the employees of the licensee to prove that the work was completed on 25.07.2011. The competent persons to speak the above fact are the field



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officers of the licensee and the contractor of the work besides other persons, who have personal knowledge with respect to the above fact. In this case, though the statements of some persons as mentioned in the award were recorded, yet, no competent person on behalf of the licensee to speak the above fact was examined. One person by name Penta Sunil Kumar on behalf of the complainant was examined and he stated before the Forum that the work as to connecting Electrical Line across road was not done, that AB switch was not installed with operating rod and that CTPT was not erected along with meter. There is no statement on behalf of the respondents contra to the above statement given on behalf of the complainant. The respondents did not submit that the above works are not necessary for giving connection or the above specific statement of the above person is false. There is no acceptable evidence supporting the case of the respondents that the work was completed by 25.7.2011. This authority is aware that oral evidence is not mandatory under the Regulation No.1/2004 to prove a fact. Since witnesses were examined on behalf of both sides, I tried to appreciate their statements. It is observed by the chairperson of the Forum in the Award at page 19 from 13th line to 21st line **“However, the details with regard to the work in respect of the said service as furnished by DE/O/Tekkali, reveal that the work order was taken on 13.07.2011, started the work from 13.07.2011 and completed by 25.07.2011, check measured by Sri. B. Rama Krishna on 15.07.2014, claimed the bill on 02.08.2014 and the payment made on 18.08.2014 but the material drawls were done from 16.08.2011 to 23.07.2014. Thus, the time taken for completion of the work was only 13 days and whereas the time taken for drawl of materials for the said work was almost 3 years”**. The above observation made by the chairperson of the Forum creates a doubt about the version of the respondents regarding the completion of the work on 25.7.2011. The chairperson assigned some reason to accept the case of the complainant that the work by the licensee was not completed by 25.7.2011, but, the remaining two members of the Forum did not consider the above material aspect. Their conclusion is stated at the end of 39th page of the Award that even till to date the consumer side work i.e. installation of yard, switchgear, DTR etc., was not completed and the CEIG



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approval is not furnished. The above finding is not warranted. Their finding is not on the disputed point. Apart from it, the 4th respondent addressing a letter dated: 16.3.2012 asking the complainant to contact the 2nd respondent regarding completion of departmental work is a strong circumstance supporting the case of the complainant against the case of the respondents. The minimum period of the agreement was two years. The complainant, within a short time i.e. below 4 months, addressed a letter dated.6.3.2012 stating that the work was not completed. The above circumstance can also be taken into consideration.

9. Sub-clause 11 of Clause 5 of the Regulation No. 01/2004 says that the Forum shall give the reasons in support of its decision. Reasons as per the above clause in the decision of this case on the basis of majority members of the Forum are lacking and as such, the award on the basis of majority of the members can be set aside on that ground or can be remanded to the Forum for fresh disposal.

10. Apart from the above stated main observation, the Chairperson of the Forum also observed in the award that the 1st respondent did not inform the complainant about the completion of the work on 25.7.2011 from the departmental side, that the 1st respondent ought to have installed the HT TVR meter and got tested by ADE/HT Meters/Srikakulam on completion of line work , but he failed to fix the HT TVR Meter to prove the readiness of the department in releasing the supply ,that there is no material that the consumer provided the agreed location for housing all the equipment of the licensee including switch gear and metering cubicles as per the clause 5.8.2 of GTCS-2006,that testing of an HT installation by the company shall be taken up only after the consumer obtains approval of installation by the electrical inspector as per clause 5.7.2.4 of GTCS and all HT installations shall be subject to the inspection and approval of the designated officer of the company as per the clause 5.5.1,that as per clause 5.9.2.1 of GTCS ,the company shall make arrangements to supply electricity in the manner prescribed after the consumer has completed all the pre-requisite formalities in respect of execution of agreement and security deposit



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etc., and that there are inherent defects and deficiencies in this case and the order dated.29.7.2011 needs to be quashed. It cannot be said that the decision of the Chair person is incorrect or illegal.

11. However, considering the submissions made by the complainant regarding the delay in disposal of this case, the view expressed by my predecessor and the proposal as to payment to be made by the complainant besides the subsequent event as to the relaxation as to the approval from CEIG, I feel that instead of setting aside the award or remanding it to the Forum for fresh disposal, passing an order directing the complainant to pay unconnected minimum charges for a period of first two years to the licensee within 20 days and further directing the respondents being employees of the licensee to release the service connection to the complainant within 15 days after the complainant making the payment of Un-Connected minimum charges for two years as directed supra, would meet the ends of justice. This point is thus answered.

12. In the result, I set aside decision of the Forum on the basis of majority of the members, direct the complainant to pay unconnected minimum charges only for first two years within 20 days from the date of receipt of this Award and further direct the respondents being the employees of the licensee to release service connection to the complainant within 15 days after the payment of UCM charges by the complainant as stated supra. This representation is thus disposed of. Considering the facts and circumstance of this case, I am not inclined to make any order as to costs.

13. This order is corrected and signed on this 28 day of February, 2017.

14. A signed copy of this order is made available at

www.vidyutombudsman.ap.gov.in.



B. Srinivasulu Reddy
VIDYUT OMBUDSMAN 28/2/17

To

1. M/s. Sri Kanaka Mahalakshmi Wire Drawing Works, Smt, Penta Dhana Lakshmi, W/o P. Nageswara Rao, Relli Street, Main Road, Kasibugga, Srikakulam District - 532 222.
2. The Assistant Divisional Engineer, Operation, Palasa, APEPDCL, Operation Sub-Division, Palasa, Srikakulam District - 532 221.
3. The Divisional Engineer, Operation, Tekkali, APEPDCL, Operation Division, Tekkali, Srikakulam District -532 001.
4. The Senior Accounts Officer, Srikakulam, APEPDCL, Operation Circle, G.T Road, Opp: Margadarshi Chitfunds, 532 001.
5. The Superintending Engineer, Operation, Srikakulam, APEPDCL, Operation Circle, G.T. Road, Opp: Margadarshi Chitfunds, Srikakulam District - 532 001.

Copy to:

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

