

Radhakrishnan THE STATE ELECTRICITY OMBUDSMAN

Pallikkavil Building, Mamangalam-Anchumana Temple Road

Opp: Kochi Corporation Regional Office, Edappally, Kochi-682 024

[www.kerala.org](http://www.kerala.org) Ph: 0484 2346488, Mob: 91 9567414885 Email:ombudsman.electricity@gmail.com

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AppealPetition No: P/ 208/2011.

(Present Sri. T.P.VIVEKANANDAN)

Appellant : K.Radhakrishnan,  
Metro High Tech Laboratory,T.B.Road,Alathur.P.O, Palakkad.

Respondent :The Assistant Executive Engineer,  
Electrical Sub-Division, KSEBoard, Alathur,Palakkad (DT).

ORDER.

Background of the Case.

Sri.K Radhakrishnan, the proprietor of Metro Hitech Laboratory, is the consumer of the Electric service connection bearing No: 12145, under Electrical Section, Alathur. He availed the said service for running a Clinical Laboratory and is the appellant of this case. This service connection was effected on 23.04.2009 and was assigned the LT VIIA-commercial Tariff for the same. As per the tariff rules in force, the eligible tariff for a Private Clinical Laboratory is LT VIB, which has a lower rate of tariff than the LT VIIA tariff assigned to him. The subsequent two electricity bills were issued under LT VIIA tariff and the consumer was given the eligible LTVIB tariff from 5.10.2009, after submitting request by the consumer. But the previous two bills dated 15.07.2009 and 14.09.2009 were for an amount of Rs.3493/- and Rs.19,444/- respectively. The appellant questions thereason for assigning him a higher rate tariff initially and pleads to revert to the LTVIB tariff from the date of inception. This is the basis and cause of the complaint from the consumer.

Arguments put in by Appellant:-

The appellant argues that he has applied for a new Electric service connection to his private clinical laboratory and as per rules the tariff applicable to his private clinical laboratory has to be LT VIB. But he was booked under LT VIIA- commercial tariff wrongly vide the spot bills issued on 15.07.2009 and 14.09.2009. The appellant has requested KSEB Officials, to rectify the defects in tariff, revise the bills and to adjust the excess amount paid in his future bills, but were all rejected. According to the appellant it was the fault on the part of KSEB officials to charge the electricity bills under LTVII A tariff instead of LT VI B and he lost more than Rs10, 000/- by the wrong tariff assigned to him. He filed Petition before CGRF, Kozhikode and the Forum failed to properly understand the case and redress his grievances. Hence the appeal filed against its Order.

Argument put in by the Respondent:-

The respondent, the Assistant Executive Engineer, Electrical Sub Division, Alathur has denied all the averments put in by the appellant. He states that, during his site inspection along with the Sub

Engineer, prior to effecting the service connection to the consumer, the Sub engineer was orally informed by the consumer that the service connection is meant for laboratory purpose in future. But at the time of giving the service connection on 23.04.2009, neither the machinery and the equipment needed for the clinical laboratory Testing were installed nor the work of laboratory had begun. The Power was being used for making the room into a full-fledged laboratory and therefore LT VIIA tariff was assigned to the consumer as per existing rules and subsequently bimonthly bills were issued on that basis. While taking the meter reading during the disputed period, no laboratory work was seen going on at the consumer's premises. So the invoices were served to the consumer under LT VII A tariff. Later the consumer filed a request on 05.10.2009, seeking the change of tariff to LT VI B and subsequently the tariff was changed to that tariff by the Assistant Executive Engineer, after spot inspection.

The respondent has advanced an argument that the refund of the so called excess amount charged, under LTVII A tariff cannot be considered, since he used electricity for the period of 7/09 and 9/09 not for the laboratory purpose. Hence the requests of consumer to revise the tariff with retrospective effect cannot be entertained, he argues.

#### Analysis and Findings.

Both parties were heard on 26.7.2011 in my chamber at Edappally, Ernakulam and the connected documents and records were examined. Ongoing through the Appeal petition, the statement of facts submitted by the Respondent, the averments raised during the hearing and considering the facts and circumstances of the case, and doing a detailed analysis of the same, I come to the following findings and conclusions leading to the decisions, as detailed below.

As per Regulation 32 of KSEB Terms and Conditions of Supply, 2005, the change of tariff for LT consumers from higher to lower tariff, at the request of the consumer, shall be permitted in bonafide cases by the officer not below the rank of Assistant Executive Engineer. The Officer shall satisfy himself the bonafide of the request and record the reasons while granting the change of tariff. A supplementary schedule to the original service connection agreement showing the change in tariff/ classification and the date of change over to the new classification/tariff, also has to be got executed by the consumer.

Being so, on receipt of a request from the appellant on 05.10.2009, seeking the change of tariff, the Assistant Executive Engineer has changed the tariff to LT VI B with effect from the date of request, i.e. from 05.10.2009. But the KSEB officials denied the request of the consumer to revise the tariff with retrospective effect i.e. from 23.4.2009, the date of availing the electric connection. The reason stated by the respondent in denying the LTVI B tariff retrospectively is that during the period up to 09/09, the consumer used the power not for Laboratory purpose as the machineries were not installed but for making the Laboratory room more full-fledged and comfortable. Hence the question to be decided is whether the Respondent's decision to assign LTVIIA-commercial tariff to the consumer is in order during the period up to 09/09 or whether a retrospective revision of tariff to LTVIB from the date of connection is justifiable as per rules?

In the report prepared by the Sub Engineer (SE) on 20.04.2009, after inspecting the premises of the consumer just prior to registering the service connection, the Electric service connection purpose is noted as ' commercial ' and the applicable tariff as ' LT VII A '. At the same time, the purpose is shown as laboratory/testing (presently not functioning) under LT VII A tariff. The SE did not clearly mention in his report about what is going on at the appellant's premises. The Respondent states that the consumer has

told the SE that Power will be used for Laboratory purpose in future only. If that is so, the SE should have obtained a statement from the consumer to the same effect and record it in the concerned File. On the other hand, if the Laboratory equipment installation or its electric wiring is not over, he should not have recommended to the Assistant Engineer (AE) for registration of service as the work is incomplete. If any work of modification or refurbishing of the Laboratory Room is pending to be done using KSEB power, that matter has to be recorded clearly by the SE in his report and on that basis he can recommend LT VIIA Tariff-commercial, as construction like activities are still pending at the site. Further, If he is convinced that for the coming days also the KSEB power will not be used for Clinical Laboratory purposes but will be utilized for refurbishing work of the Room only, then also he can recommend commercial tariff on that account, since refurbishing work is a construction activity. At any rate the reason for recommending the commercial tariff for a Clinical Laboratory has to be clearly noted by the SE or the Assistant Engineer, before assigning a different tariff other than the eligible tariff of LT VIB to clinical Lab. The complaint of the appellant is that he is eligible to be charged under LT VI B tariff from the very beginning of the date of connection, but due to the fault of KSEB officials, excess amount was recovered from him.

The document, copy of the Inspection Report of the Sub Engineer (SE) after inspecting the consumer's premises prior to effecting the Electric connection, produced by the appellant shows the remark of the Sub Engineer as follows;

“Tariff LT VIIA, Purpose= Laboratory Testing (Presently not functioning)”

From the above report, it is clear that the Respondent knew that the service connection is meant for Clinical Laboratory purpose. Without getting the electric service connection, now a days, it is very rare to have one new Clinical Laboratory start functioning. Hence I feel that there is no logic in the above statement of SE that the ‘Laboratory is not functioning’ because the electric service connection was not provided to the consumer at that time. The SE or the AE has not reported any type of construction work or other activities going on at the site, during site inspection or after giving the service connection, attracting a Commercial tariff. Without any basis KSEB cannot assign a commercial tariff denying an eligible tariff.

The service Connection was provided on 23.4.2009, and the first meter reading was taken in 7/2009, and the bill issued thereof dated 15.7.2009 shows the energy consumption as merely 7 (Seven) units for more than two months usage whereas the next bi-month's energy usage (vide bill dated 14.9.2009) was 1988 units. This low energy consumption for the first spell i.e. up to 7/2009, usage for more than 2 months from the date of getting Power from KSEB, suggest that the consumer was not ready with his installation of equipment for starting a clinical Laboratory till 7/2009. The Respondent now deposes that the consumer was not ready with his Laboratory equipment installation even after getting the electric connection. If the equipment requiring electric power installation was pending, then the respondent should not have registered the service connection since the work was incomplete. But the respondent failed to note down clearly what is happening at the consumer's premises (whether any construction or installation work using KSEB power is going on etc.) after providing the electric supply, which warrants a commercial tariff. Without any clear document to prove it from the respondent side, it cannot be argued that the tariff of the consumer as commercial. Hence I am inclined to infer that the consumer belongs to LTVI B category, the eligible tariff applicable to private clinical Laboratories, from the date of connection.

In this case, it is found that the consumer was overcharged under LT VIIA Tariff without sufficient reasons. The only argument raised by the respondent against the appellant is that the consumer has not used the energy for laboratory purposes during the period up to 09/09. But the respondent failed to

establish that the energy was being used by the consumer for any commercial purpose chargeable under LT VII A tariff during the said period.

As per the existing rules, the tariff applicable to private clinical laboratories, X-ray units, private mortuaries, private blood banks, and private scanning centers, are grouped under LT VI B tariff.

Decision:-

From the foregoing analysis of the case done with the documents produced, I conclude that the respondent has failed to establish the reason for allotting LT VIIA- commercial tariff to the consumer when it was very clear, as per Tariff rules in force that the applicable tariff for a clinical laboratory is LT VIB only. Hence it is ordered that the tariff of the appellant shall remain under LT VIB from the date of connection of his service and the disputed bills dated 15.7.2009 and 14.9.2009 shall be revised under LTVIB tariff accordingly and the excess amount collected from him may be adjusted in his future bills. Having concluded and decided as above, the Appeal Petition filed by the consumer stands allowed to the extent ordered. No order on costs. Dated the 8<sup>th</sup> December, 2011,

ELECTRICITY OMBUDSMAN.

NO: P/208/2011/ 1034/ Dated 12.12.2011.

Forwarded to: -

- (1). Sri. K Radhakrishnan  
Metro Hi-tech Laboratory, TB Road, Alathur P.O. PALAKKAD-678 541.
- (2). The Assistant Executive Engineer, Electrical Sub Division, KSEBoard,  
Alathur, Plakkad (Dt.)

Copy to:

- (1). The Secretary, Kerala State Electricity Regulatory Commission,  
KPFC Bhavanam, Vellayamblam, Thiruvananthapuram-10
- (2). The Secretary, KSEBoard, Vydyuthibhavanam, Pattom, Thiruvananthapuram-4.
- (3). The Chairperson, Consumer Grievance Redressal Forum, Vydyuthibhavanam, KSEBoard,  
Kozhikode.