

## THE STATE ELECTRICITY OMBUDSMAN

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### Appeal Petition No: P/ 225/ 2011.

(Present T.P. Vivekanandan)

Appellant : Sri.R.Vijayachandran Nair  
Vipanchika, M.O.Ward,  
Alappuzha (DT).

Respondent : The Assistant Executive Engineer.  
Electrical Sub Division, KSEBoard,  
Alappuzha North.

### ORDER.

#### Background of the Case.

Sri. Vijayachandran Nair, the appellant, having an electric connection with Consumer No.4175 under Electrical section, Alapuzha North, is running a shop w.e.f 18.05.1995. The electricity bills and additional Security Deposits were paid as and when demanded by KSEB without any default. Due to lack of business and several other reasons, the shop was closed down and not running for the last one year. The fixed charges of Rs.300/= were being charged in every bimonthly bills as demanded by KSEBoard during the closed down period. The reason for such a huge amount was noticed only very late and it was understood that the connected load fixed by KSEBoard was as high as 2000 Watts. The load was subsequently reduced to 495 watts after meeting all formalities with the KSEB. The consumer preferred a complaint before the CGRF, Ernakulum with a request to refund the excess amount paid by him towards the fixed charges and he blamed the KSEB for its mistakes by charging him with the high amount of fixed charges with out any reason. Since it is found that the petition is devoid of any merit, it was dismissed vide order No. CGRF/CR/Comp.79/2010-11 dated 25.04.11 of CGRF, Ernakulum. Aggrieved by the order, the appellant submitted this appeal before this authority.

#### Argument of the Appellant: -

The appellant has raised the following argument in his argument note submitted separately.

- 1). The appellant was running a medical shop since 15.11.90 on the strength of license granted by Drugs Controller, Kerala at door No .XXVI/917 of Alapuzha Municipality. The electrical items used at the shop were, one refrigerator, one ceiling fan, 5 tube lights and a zero watt light. The room was previously owned by another person and was purchased by the appellant on 02.01.95 and he had remitted the prescribed fee and filed application before the Assistant Executive Engineer, South Section, Alappuzha along with the connected documents to get the ownership changed in his name.

The appellant argues that it was the duty of the officials concerned to inspect the premise, satisfy itself as to the particulars of it, authenticity of records produced, nature of use, and the power equipment details, before issuing the Order. It seems the order was issued (with almost 3.5 times additional connected load plus actual load) in a mechanical manner, without considering the facts and circumstances of the case. The tariff fixed was 2000 watt which is highly arbitrary and excessive. In as much as the change of ownership tantamount to new connection, statutory formalities in this regard ought to have been followed by the officials concerned. The lapse in their routine procedure was the careless issue of excess billing for so many years which necessitated a second application on 19.03.2010 for load reduction to actual 445 watt. The argument is that the appellant cannot be held responsible or punished for the lapses of the officials.

Further, the appellant challenges the inference made in the CGRF's order and states that it is not sustainable due to the following reasons.

- (1). A reasonable approach should not be the criteria for arriving at a decision in a peculiar case of complaint without any precedent. It should be based on facts which have to be discovered and satisfied by the Forum before arriving at a final conclusion and issue its verdict. Here the order was biased, unilateral and immature.
- (2). The second application of 19.03.10 and subsequent inspection of 17.03.10 was enforced by the Board on the petitioner as the routine procedure was not carried out by them in time as per his original application dated 05.04.95 for change of name and unilateral fixation of load as 2000 watt without any basis for which he can not be held responsible or at fault.
- (3). The respondent could not produce any valid document to establish that there was 2000 watt load before 17.03.10 from 02.01.95 at the appellant's medical shop.
- (4). There was no occasion or need of 2000 watt load at any time for this small medical shop which is frequently being inspected by the Drugs department officials who are not permitting changes in the fittings during the currency of licensee.
- (5). The appellant raises a doubt as to the existence of a reverse situation on tracing the mistake at a later stage, what would be the course of action in this regard by the KSEBoard.

The appellant's contention is that the Appeal having a very special significance, unique nature, merit and cent percent genuineness, will have to be considered favorably and requested to refund the excess amount realized with admissible interest.

Argument of the Respondent: -

The respondent denies all the averments and allegations contained in the petition except to the extent he is specifically admitted in his written statement.

The registered owner of the electric connection with consumer No.4175, under electrical section, Town, as per records was one Sri. T. K. Ramachandran Pillai. The electric connection was given for commercial purposes with a connected load of 1280 watts (rounded to two kilo watts for billing purposes since part of a kilowatt is treated as one kilowatt). The ownership was transferred in the name of the appellant on 18.05.95 and the appellant is the present consumer. Since then the appellant was remitting the current charges regularly without any disputes.

On 19.03.10, the appellant has requested to reduce the connected load in the premises of consumer No.4175 to 445 watts, with connected papers and its fee was remitted. The KSEBoard officials had inspected the premises and physically verified the connected load to 445 watts based on actual load of the equipments connected in the premises. Since then, the fixed charge for the reduced load of 445 watts (rounded to one kilo watt for billing purpose) is only collected from him. The respondent argues that, the 'license' issued by the Drugs department and their inspection report has no relation with the connected load in the premises of shop, as far as KSEB is concerned. Fixed charge is collected based on the connected load of the electrical equipments fitted in his shop, its purpose (tariff) and supply system voltage of the premises only.

The main contention of the respondent is that the appellant is not eligible for getting reduced his fixed charges before officially reducing the connected load by submitting application to KSEB and a revised service connection agreement with new connected load was executed as per rules. The appellant had requested to reduce the connected load on 19.03.10 and the same has been accepted on 22.03.10, after physical verification of the load and hence there is no laxity or defect in service.

Analysis and Findings: -

The appellant was running a medical shop in the building No. XXVI/917 of Alapuzha Municipality, which has an electric connection with consumer No.4175 under commercial tariff. The building was purchased by the appellant from Sri. Ramachandran Pillai and transferred the electric service in his name on 18.05.95. Since then the appellant was paying the current charges with out any dispute except for the last one year of nonfunctioning of the shop when it was closed and the appellant had to remit the fixed charges at the rate of Rs.300/= in every bimonthly bill. On enquiry, he realized that the remittance of fixed charges at the rate of Rs.300/= was necessitated, due to the high connected load of his shop, fixed at 2000 watt. The appellant's main contention is that, at the time of transferring the service connection in his name during 1995, the Board officials had not followed the statutory formalities as required for a new connection, like the site inspection and fixing the connected load of his premise. He blames the KSEBoard for the lapses on their part which led to the payment of higher fixed charges for excess load than that existed actually. The respondent has not specified whether he conducted a site inspection, while transferring the ownership of the service connection in 1995, in the name of the appellant. But the respondent says that the connection was given for commercial use to Sri.K.Ramachandran Pillai with a connected load of 1280 watts. It is also noted that this was rounded to 2 kilo watt for billing purpose since part of a 'kw' is treated one 'kw'.

It is a surprising fact that the appellant who has remitted the current charge for the last 15 years could not realize the higher rate of fixed charges and did not raise any complaint during these years. In all the bills received by the consumer, there was entries regarding the connected load and there was scope for applying for reduction in connected load. The appellant applied for reduction in his connected load only after the closure of his shop. The connected load was reduced as per his request and on filing papers for the same and was fixed at 445 watts w.e.f.22.03.10. The appellant's monthly fixed charges were reduced accordingly. There after the appellant had requested KSEB to refund the excess amount remitted with retrospective effect based on the reduced connected load.

In this regard, the provision contained in clause 40 (3) of KSEBoard Terms and Conditions of supply, 2005, is extracted here under as; "where consumer applies to the Board for re-rating his installation due to additions or alterations in the installation, the Board shall arrange to do this, on payment of the prescribed fee and the rerating shall take effect from the date of such additions or alterations were made or from the next meter reading date following the date of payment of the fee, whichever is later ". The rules in force do not allow any retrospective implementation of the fixed charge. The appellant has to point out any mistake or lapses occurred with in a reasonable time.

The document of the copy of the service connection register produced by the respondent shows a connected load of 1280 W at the time of registering the electric service and accordingly the load for billing purpose is taken as (rounded to) 2 kw. But the applicable tariff noted in the same register and in the Transfer ownership certificate is recorded as LT VII B which suggests to me that the connected load is at or below 1000 watts only. How the discrepancy in the connected load (more than 1KW) in the register and the tariff fixed as LT VII B (applicable for less than 1000 watts), has crept in, is not known. It might have occurred by omission or by oversight. Since it is an ordinary medical shop, I am of the view that normally it will have a load of below 1KW, and hence inclined to award the benefit of connected load as 1 KW only and not as 2 KW, and shall be made applicable for the last 2 years prior to the date of request for change of Tariff in 3/2010.

Decision: -

From the analysis done above and the findings and conclusions arrived at, I decide that the appellant's regular bimonthly bills for the last 2 (two) years, prior to 03/2010, shall be revised taking the connected load as 1KW only and the excess amount so collected by way of fixed charges shall be refunded to him by adjusting in his future bills, within 45 days of this order. The consumer should also be intimated by the respondent, the amount so arrived at that is going to be adjusted in his future bills.

Having concluded and decided as above, it is ordered accordingly. The Appeal Petition filed by Sri. R.Vijayachandran Nair, Alapuzha, stands allowed to the extent ordered and is disposed of as above. No order on costs. Dated the 15<sup>th</sup> of May, 2012.

ELECTRICITY OMBUDSMAN

No.P/225/2011/ 1235/ Dated 15.05.2012.

Forwarded to: (1). Sri.R.Vijayachandran Nair

Vipanchika, M.O.Ward, Alappuzha-688 00.

(2) The Assistant Executive Engineer

Electrical Sub Division, KSEBoard, Alappuzha North.

Copy to: (1). The Secretary, Kerala State Electricity Regulatory Commission, KPFC Bhavanam, Vellayambalam, Thiruvananthapuram-10.

(2). The Secretary, KSEBoard, Vydyuthibhavanam, Pattom, Thiruvananthapuram-4

(3). The Chairperson, Consumer Grievance Redressal Forum, KESBoard, Power House, Ernakulam-18.