

STATE ELECTRICITY OMBUDSMAN

Pallikkavil Building, Mamngalam-Anchumana Temple Road
Opp: Kochi Corporation Regional Office, Edappally, Kochi-682 024
www.kerala.org Ph.0484 2346488 Mob: +91 9567414885
Email:ombudsman.electricity@gmail

REVIEW PETITION ON APPEAL PETITION NO: P /223 /2011.

(Present: T P Vivekanandan)

REVIEW PETITIONER/ APPELLANT : Sri. N. Vasavan,
Santhi Nivas, Akhil Road, Konthuruthi P O,
Thevera, Kochi-13, Pin: 682013

RESPONDENT : The Assistant Executive Engineer,
Electrical Sub Division, College, KSEB, Ernakulam.

ORDER.

Background of the case: -

The appellant is domestic consumer of electricity with No.486, under Electrical section, Thevera. While being so, the meter in the premises of the consumer was alleged to be not working properly, resulting in abnormal Meter readings during the period, 3/08 to 1/09 and was issued a bill dated 16.1.2009, for a consumption of 500 units as average use. The bill was paid by the appellant on 22.1.2009 and then filed a complaint before the respondents, requesting to revise the disputed bill in accordance with previous consumption and to replace the defective meter. Later the consumer approached the CGRF and still being aggrieved at its decision, filed the Appeal Petition No. P/223 / 2011, before this Forum.

This Forum, has pronounced the order on 2nd March 2012, on the Appeal Petition filed against the CGRF's order, and after hearing both sides, holding that the Meter was erratically functioning during the period 1/08 onwards and hence need revision of the bills issued from 3/08 to 1/09. The true average energy consumption during this period of 3/08 to 01/09 was also fixed at 326 units per bi-month and ordered the respondent to revise the bi-monthly bill of the said period accordingly.

Secondly, the request to refund the cost of the broken Meter was disallowed as the appellant has failed to put forward any serious contentions before this Forum, and therefore found the amount as payable by the consumer for not securing the Meter provided to his house.

The Review Petitioner/Appellant has approached this Forum with a Petition dated 19.3.2012, with the plea to Review the second decision on the said Judgment on the Appeal Petition. That is, to the extent that the refund of meter cost disallowed may be reviewed, on the following grounds.

Arguments of the Review Petitioner: -

The Review Petitioner has submitted the following points for consideration. The appellant in the Appeal Petition dated 26/5/2011 has not intended to challenge the order of CGRF, regarding the refund of meter cost but only prayed for a direction to implement the refund order passed by the CGRF. The respondent also has not filed any objection against the said refund order. Since there is no challenge against the refund order of CGRF, the appellant was on the impression that there is no need or necessity to put forward arguments regarding the merits of the said refund order. The CGRF was pleased to pass the said refund order after considering the entire evidence in a proper manner.

The 2nd mahazar issued based on the narration of the lineman was with malafide intention to harass and extract cost of the meter, which can not be accepted by the petitioner. But at that point of time he was forced to deposit the meter cost at the teeth of disconnection vide letter dated 23/3/2009 of the AE. The CGRF in its order dated 21/3/2011 has termed that 'the damages of the meter based on the report of the lineman has to be considered as only malafide intention as the Sub Engineer(SE) who first inspected has not identified any damage to the meter' and hence ordered to refund the cost of the meter. Hence prays to confirm the said decision of CGRF.

Arguments of the Respondent: -

The respondent has adduced the following contentions. The first mahazar was prepared based on, as what is seen at site, without getting in touch with any part of the meter. After that being done, the SE deputed the staff of the section office for replacing the faulty meter. At the time of meter replacement only, they noticed the damages on the security seal of the meter and the SE after verification confirmed the discrepancies noticed in the security seal. This was the cause for a 2nd mahazar and so the same was prepared and noted the discrepancies in it. There is no case of harassment or abnormality in SE's action and it is proper. Another contention is that as per Clause No. 21 (3) of Terms and Conditions of Supply, 2005 the consumer shall be responsible for the safe custody of the meter and other properties of the Board in his premises. The damaged meter, in such cases, has to be replaced only after realizing the cost of the meter.

DECISION: -

A hearing was conducted on 24.7.2012. The review petitioner and the respondent, the AEE, ESD, College, Ernakulum, have attended and argued on the above lines. On examining the Petition and the arguments from either side, this Authority comes to the following conclusions and decisions thereof.

The CGRF has issued order, after hearing both sides and examining all the facts, and directed the respondent, to refund the cost of energy meter collected from the consumer. There was no serious objection from the respondent's side, against the decision of the CGRF, on the prayer of the appellant to refund the cost of Meter, collected from the consumer. The appellant's averment that he was under the impression that there is no necessity to put forward any arguments upon the said refund order, as it was in his favor, is most likely to be true, even though the appellant had included it under the heading 'relief sought' in the Appeal Petition. The CGRF was pleased to pass the said refund order after considering the entire evidence in a proper manner. The KSEB (respondent) also has not filed any specific averment against the said refund order. Hence I am inclined to accept the argument of the consumer that "in the appeal dated 26.5.2011, he did not intend to challenge the order of CGRF with respect to the refund of meter cost but only prayed for a direction to implement refund order passed by the CGRF".

Considering the above facts, I review my decision on the issue of refund of Meter cost and hereby order that the CGRF's decision to refund the meter cost collected from the appellant will hold good. That is to say, the meter cost collected from the consumer shall be refunded by adjusting the said amount, against the future bills of the consumer.

Hence, the 2nd paragraph under the sub head, 'Decision', in page 4, of the order NO: P /223 /2011/1141/Dated 02.03.2012, issued by the undersigned, reproduced under italics below, stands deleted from the said order.

“The refund of Meter cost is disallowed as the respondent has prepared a mahazar regarding the breakage of Meter cover and given notice to the consumer intimating the meter’s damage and asking to make payment. Further the appellant has failed to put forward any serious contentions against the same notice of AE before this Forum, and therefore I feel that the amount is payable by the consumer for not securing the Meter provided to his house”.

There is no other change in the said order dated 02.03.2012.

Having concluded and decided as above, it is ordered accordingly. The Review Petition filed by the appellant is found having merit and is allowed to the extent ordered. No order on costs. Dated the 15th of November, 2012.

Electricity Ombudsman.

Review Petition on Appeal Petition NO: P /223 /2011/ 1448/ Dated 15.11.2012.

Forwarded to: - 1). Sri. N. Vasavan, SanthiNivas, Akhil Road,
Konthuruthi P.O.,Thevera, Kochi-13.

2) The Assistant Executive Engineer,
Electrical Sub Division, KSEB, College, Ernakulam.

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

2). The Secretary, KSEB, Vydhyuthibhavanam,
Pattom, Thiruvanathapuram-4

3). The Chairperson, Consumer Grievance Redressal Forum,
KSEB, Power House Bldg, Ernakulam-682018.