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APPEAL PETITION NO. P/108/2015

(Present: V.V. Sathyarajan)

Dated: 14th September, 2015

Appellant : Sri. A.N. Sethumadhavan
Amma House,
Manapullikavu,
Palakkad 678013

Respondent : The Assistant Executive Engineer,
Electrical Sub Division,
KSE Board Ltd, Sultanpet,
Palakkad

ORDER

Background of the case:

The appellant Sri A.N. Sethumadhavan was already granted service connection with consumer no. 20155 under LT V tariff by the Assistant Engineer, Electrical Section, Sultanpet. The appellant had remitted an amount of Rs. 400/- as security deposit on 09-03-2010. It is alleged that the appellant is eligible for getting the agriculture service connection at free of cost as per the prevailing rules. But the respondent has not effected service connection due to difficulty in constructing the overhead line since the area surrounding the proposed service connection was water logged.

Since the respondent has not turned up to issue the pending service connection, the appellant submitted a request on 13-01-2012 for the same. On 02-03-13, the appellant was informed that the service connection could be effected only after remitting the estimated cost of work as per the revised guidelines for effecting service connection. Aggrieved by this, the appellant approached the CGRF, Kozhikode with a petition in OP No. 98/2014-15 which was disposed on 05-08-2013 directing the respondent to effect service connection after collecting the OYEC charges from the appellant. Not satisfied with the above order, the appellant filed this appeal petition before this Authority on 09-12-14.

Arguments of the appellant

The appellant has stated that the service connection with consumer number 20155 was granted under LT V Tariff after collecting the security deposit. When the electricity officials came for the construction of the line, the

area to which the service connection proposed was under water logged and they were unable to effect the service. It is a fact that water was flooded outside the compound and hence erection of electric post was not possible. When the water went off, the appellant approached the KSEB office on 13-01-2012 and he submitted an application to effect the service. But the officials have informed the appellant that as per the order dated 28-10-2011, the service can be effected only after realization of the estimated cost for the work.

Aggrieved by this, the appellant approached the CGRF and vide order dated 05-08-2013, to the utter surprise of the appellant, the Forum reached an observation that due to the release of water from Malampuzha dam the appellant was not in need of the connection for a long time and abstained from the formalities. The Forum directed the officials of the KSEB that the service connection shall be effected after collecting the OYEC charges.

The appellant's contention is that he had applied for the connection, and remitted the security deposit and registered as a consumer with consumer No. 20155. The officials of KSEB who visited the site observed that the erection of OH line is not possible due to technical reasons and not taken any action. Hence the appellant again approached the authorities and by that time the new order for payment of OYEC has come for which the appellant may not be made responsible. The appellant, anyhow, had made a payment of Rs. 13,250/- towards the OYEC charges to get the connection effected. The prayer is for directing the respondent for refunding the said amount with compensation and costs to the appellant in order to render justice.

Arguments of the respondent:

The respondent stated that the appellant had applied for a new service connection for agricultural purpose. He had remitted an amount of Rs. 400/- as security deposit on 09-03-2010 and was allotted Consumer No. 20155. The quantum of work involved was drawing 44 metres of single phase overhead line and 25 metres of weatherproof service wire. During that time KSE Board was providing agricultural service connections free of cost to the applicants. Hence the work of erecting the poles for drawing overhead lines was arranged. But the location was fully water logged at that time due to the opening of Malampuzha canal for irrigation purpose. The poles could not be erected. Seeing this, the appellant submitted an application requesting to keep the service connection pending. Therefore the service connection was not effected and kept in abeyance.

In the meantime, KSE Board had issued revised guidelines for effecting service connection vide order No. B.O(FM) No. 253612011(KSEB/TRAC/S Code/SCC IR2109) TVM dated 28-10-2011, wherein it was clearly specified that all service connections including agricultural connections shall be effected only after realisation of estimated cost of work. The appellant, on 13-01-2012, submitted a request to the Assistant Engineer, Electrical Section, Sulthanpet for effecting the service connection which was kept pending. Because of the conditions specified in the above mentioned Board order, the appellant was

informed that the service connection could be effected only after remitting the estimated cost of work.

Aggrieved on this, the appellant approached the Consumer Grievance Redressal Forum (North) Kozhikode. But the Forum in its judgement dated 05-08-2013 held that the service connection need be effected only after collecting the estimated cost of work. Based on this order, the appellant had remitted Rs. 13,250/- being the estimated cost of work on 24-11-2013 and the service connection was effected on 26-11-2013.

Analysis and findings

The hearing of the case was conducted on 18-08-2015 in my chamber at Edappally. Sri A.N. Sethumadhavan represented for the appellant's side and Sri G. Premraj C.V., Assistant Executive Engineer, Electrical Sub Division, Sulthanpet, Palakkad appeared for the respondent's side. On examining the petition and the arguments filed by the appellant, the statement of facts of the respondent, perusing the documents attached and considering all the facts and circumstances of the case, this Authority comes to the following conclusions leading to the decision.

On a perusal of the petition it can be seen that it is a time barred one. The appellant filed a petition to condone the delay. As the facts and circumstances mentioned in the condonation petition are found genuine, it is decided to admit the appeal and numbered the petition as P/108/2015.

In the argument notes submitted by the appellant, it is stated that no request was filed by the appellant to adjourn the procedures for effecting the connection. The service connection was kept pending as per the convenience of the respondent. Though the appellant repeatedly requested for connection, the respondent went on dragging the connection for their own technical reasons. The appellant's contention is that once the security deposit was collected and the service was registered, it is the duty of the respondent to effect the connection as per the order of priority. Hence the appellant was eligible to get the connection on that day itself.

On the other hand the respondent contented that the appellant submitted an application requesting to keep the service connection pending. But the respondent has failed to furnish any such request in order to substantiate this argument. The respondent admitted the fact of receipt of request for effecting service connection from the appellant on 13-01-2012. But it is seen that a reply to this request was given by the Assistant Engineer only on 02-03-13 i.e. even after a period of 13 months which is highly irregular and cannot be justified.

Section 43 of Electricity Act 2003 allows some exceptions from duty to supply electricity which reads as follows: **“Nothing contained in Section 43 shall be taken as requiring a distribution licensee to give supply of electricity to any premises if he is prevented from so doing by cyclone, floods, storms or other occurrences beyond his control.”** But in this

particular case an indefinite delay has occurred to effect a service connection which sanctioned during 2010 which cannot be justified. The revised guidelines for effecting services were issued by the Board only on 28-10-2011. During the period from 09-03-2010 to the date issuance of the revised guidelines, the respondent has not taken any action to effect the service connection to the appellant which shows serious lapses on their part. The contention of the respondent that service connection was kept pending on the request of the appellant, cannot be believable as the respondent failed to produce any such request of the appellant in this regard. Hence the appellant is eligible for getting the service connection as per the prevailing rules prior to the date of issue of revised guidelines.

Decision

In view of the above discussions I am of the opinion that as the appellant was a registered consumer as on 09-03-2010, he is eligible for getting service connection at free of cost as per the prevailing rules. The respondent who failed to effect the service connection timely is responsible for the whole issue. Hence it is decided to refund the amount of Rs. 13,250/- already remitted along with interest within a period of 30 days from the date of receipt of this order. The appeal is admitted as found having some merits. The order of CGRF in OP No. 98/2014-15 dated: 05-08-2013 is set aside. No order as to costs.

ELECTRICITY OMBUDSMAN

P/108/2015/ _____ Dated: _____

1. Sri. A.N. Sethumadhavan, Amma House, Manapullikavu, Palakkad 678013
2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Ltd, Sultanpet, Palakkad

Copy to:

1. The Secretary, Kerala State Electricity Regulatory Commission, KPFC Bhavanam, Vellayambalam, Thiruvananthapuram-10.
2. The Secretary, KSE Board Limited, Vydhyuthibhavanam, Pattom, Thiruvananthapuram.
3. The Chairperson, Consumer Grievance Redressal Forum, Kerala State Electricity Board Limited, Gandhi Road, Kozhikode District.