

THE STATE ELECTRICITY OMBUDSMAN

Charangattu Bhavan, Building No.34/895, Mamangalam-Anchumana Road,
Edappally, Kochi-682 024

www.keralaeo.org Ph: 0484 2346488, Mob: 91 9447576208

Email:ombudsman.electricity@gmail.com

APPEAL PETITION NO. P/138/2015

(Present: V.V. Sathyarajan)

Dated: 30th November 2015

Appellant	:	Dr. Jose Joseph Malieckal Puthenpurayil, Krishnapuram, Alappuzha.
Respondent	:	The Assistant Executive Engineer, Electrical Sub Division, Charummoodu, KSE Board Ltd, Alappuzha.

ORDER

Background of the case:

The appellant, Dr. Jose Joseph is the Managing Trustee of a hospital named "Kattanam Medical Centre" bearing LT Cons. No. 13538 under Electrical Section, Kattanam. On 22-05-2015, APTS, Kozhikode wing had conducted surprise inspection at the appellant's premises of Consumer No. 13538 and detected that the appellant being wrongly billed in LT VI B instead of LT VI F tariff. The appellant was served with a short assessment bill dated 23-05-2015 amounting to Rs. 2,85,891.00 for the period from 5/2013 to 4/2015. The complaint filed by the appellant was disposed by the Assistant Engineer, Electrical Section, Kattanam by confirming the bill. Aggrieved by this, the appellant approached the CGRF, Ernakulam by filing a Complaint No. 30/2015-16. The CGRF dismissed the petition vide order dated 08-07-2015 by holding that the short assessment bill is in order. Still aggrieved with the above decisions of CGRF, the appellant has approached this Authority with this appeal petition on 05-08-2015.

Arguments of the appellant:

Appellant along with 4 other persons constituted Trust by name Sevanam Medical and Educational Trust, Kattanam. The Hospital, Kattanam Medical Centre is being run by the said Trust and the said Hospital has an electric connection with consumer No. 13538. Monthly electricity charges will range from Rs. 35,000.00 to Rs. 45,000.00 and the appellant is paying the electricity charges without any default.

While so the Licensee issued a notice to the appellant intimating that, in the inspection conducted by the Vigilance wing on 22-05-2015 it was found that due to difference of tariff an amount of Rs. 2,85,891.00 is due from the appellant and has been directed the appellant to remit the said amount within 7 days from 23-05-2015. Appellant gave a reply to the said notice on 25-05-2015, arguing that a difference in electricity charge was occurred and a huge amount has been imposed on the appellant due to the negligence from the part of licensee's employees and not due to any fault from the appellant. Further it is stated that the electricity consumption in the hospital is mainly from the inpatients. So the appellant is collecting the electricity charge from the inpatients by including in their hospital bills. Due to the negligence of the employees of the licensee the appellant was unaware about the change in tariff, so the appellant became unable to collect the excess electricity charge from the patients at that time. At present the appellant is totally unable to collect the said amount from those patients as they have already been discharged. Due to the negligence of the employees of the licensee the appellant has been put in great difficulty and loss.

The appellant also stated that apart from short assessment bill the Licensee issued a 'Details of Bill' and a disconnection Notice. In the details of bill the tariff shown as LT VI F but in disconnection notice tariff is shown as VI B. From the above, it is clear that there occurred severe mistakes from the part of the licensee. Hence the appellant filed a complaint before the KSEB Consumer Grievance Redressal Forum, Ernakulam on 30-05-2015. There was every circumstance to allow the complaint. But the Kerala State Electricity Board Consumer Grievance Redressal Forum, Ernakulam disposed the complaint against the appellant by its order dated 08-07-2015. The said order has been passed by the KSEB Consumer Grievance Redressal Forum, Ernakulam without analyzing the case of the appellant in a proper manner. All the findings of the KSEB Consumer Grievance Redressal Forum, Ernakulam in the order are irrational and against the principles of law concerned. So the appellant prefers this appeal petition.

Nature of relief sought for:

For the reasons stated above this Hon'ble Ombudsman may reverse the order issued by CGRF and also pass an order exonerating the appellant from the liability casted upon him in the Notice.

Arguments of the respondent:

The respondent stated that Dr. Jose Joseph is the Managing Trustee named "Kattanam Medical Centre" bearing LT Cons. No. 13538 under Electrical Section, Kattanam. On 22-05-2015, APTS, Kozhikode wing, as part of a special drive in Alappuzha district, had conducted surprise inspection in the above premises and detected misclassification in tariff of the appellant being billed in LT VI B wrongly instead of LT VI F tariff.

The tariff applicable to private hospital category was changed from LT VI B to LT VIII tariff as per the KSERC order dated 30-04-2013 and BO(CM) No. 1218/2013 KSEB/TRAC/Tariff revision 2013-14 dated 30.06.13 w.e.f. May 2013. The tariff of the said category was again changed from LT VIII to LT VI F as per the KSERC order dated 14-08-2014 and BO(CMD) NO.2584/2014(KSEB/TRAC/Tariff rev. 2014-15) dated Tvm. 04-10-14 w.e.f. August 2014. But in this case, both these tariff changes were not effected and continued the billing under LT VI B tariff from May 2013 to April 2015 (24 months).

The omission in tariff change in this case was happened because the purpose of connection was wrongly selected as 'hostel' instead of 'hospital' at the time of data entry as part of the billing computerization done in 2008. Both the hospital and hostel categories were under the same LT VI B tariff at that time and that continued till April 2013. Due to this reason, the appellant was left unnoticed during the process of reclassification of 'private hospital' consumers from LT VI B tariff to LT VIII and LT VI F tariffs w.e.f. May 2013 and August 2014 respectively. Based on these findings, short assessment was made to the appellant for the period from May 2013 to April 2015 (24 months), in LT VIII and LT VI F tariffs for corresponding periods and served as a bill for an amount of Rs. 2,85,891.00 on 23-05-2015.

Against this, the appellant filed objection before the Assistant Engineer, Electrical Section, Kattanam and a hearing was conducted by the Assessing Officer on 04-06-2015. Since the short assessment was made without any penal charges for the difference in energy charges due to the misclassification for a known period of 24 months. The Assessing officer confirmed the bill amount as liable to be paid by the consumer. As per the Regulation 152 of the Supply Code, 2014, when the anomalies attributable to the licensee, were detected on inspection at the premises of the consumer - such as, wrong application of multiplication factor, incorrect application of tariff by the licensee even while there is no change in the purpose of use of electricity by the consumer, the amount of electricity charges short collected by the licensee shall only be realized from the consumer under normal tariff applicable to the period during which such anomalies persisted without any interest but limited to a maximum period of 24 months.

Since KSEB Ltd. has acted and followed the procedures mentioned in the relevant regulation in Supply Code, 2014, the Hon'ble CGRF disposed of the petition filed by the consumer in favour of the licensee by its order dated 08-07-2015.

Analysis and findings

A hearing of the case was conducted on 30-10-2015 in my chamber at Edappally. Advocate M.R. Salim, represented for the appellant's side and Sri Rajesh K.R., Assistant Executive Engineer, Electrical Sub Division, Charumoodu for the respondent's side. The brief facts and circumstances of the case that led to filing of the petition before this Authority are narrated

above. On examining the petition of the appellant, the statement of facts filed by the respondent, the arguments in the hearing and considering all the facts and circumstances of the case, this Authority comes to the following findings and conclusions leading to the decisions.

According to the appellant a difference in electricity charge was occurred and a huge amount has been imposed on the appellant due to the negligence from the part of licensee's employees and not due to any fault from the appellant. In the hospital, the expenditure incurred towards the electricity consumption is mainly collected from the inpatients by including in their hospital bills. Due to the negligence of the employees of the licensee the appellant was unaware about the change in tariff and hence the appellant became unable to collect the excess electricity charge from the patients at that time. Due to the negligence of the employees of the licensee the appellant has been put in great difficulty and loss.

In reply the respondent stated that the tariff applicable to private hospital category was changed from LT VI B to LT VIII tariff as per the KSERC order dated 30-04-2013 and the tariff of the said category was again changed from LT VIII to LT VI F as per the KSERC order dated 14-08-2014. But in this case, both these tariff changes were not effected and continued the billing under LT VI B tariff from May 2013 to April 2015 (24 months). Further, the omission of tariff change in the case of the appellant was happened because the purpose of connection was wrongly selected as 'hostel' instead of 'hospital' at the time of data entry as part of the billing computerization done in 2008. Both the hospital and hostel categories were under the same LT VI B tariff at that time and that continued till April 2013. Due to this reason, the appellant was left unnoticed during the process of reclassification of 'private hospital' consumers from LT VI B tariff to LT VIII and LT VI F tariffs with effect from May 2013 and August 2014 respectively.

On going through the documents, it is clear that the appellant has not changed the purpose of supply as mentioned in the agreement, but the schedule of tariff and terms and conditions for retail supply of electricity has been changed by the Hon'ble KSERC. Accordingly, the private hospitals come under LT VIII with effect from May 2013 and under LT VI F with effect from August 2014. It is the bounden duty and responsibility of the licensee to reclassify the consumer suo motu under appropriate category consequent to a revision of schedule of tariff and terms and conditions for retail supply of electricity. Hence it is not fair from the part of licensee to burden the appellant with a huge arrear bill.

In fact there is provision for suo motu reclassification of consumer category by the licensee. Regulation 97 of Supply Code reads as:

- 1) "If it is found that a consumer has been wrongly classified in a particular category or the purpose of supply as mentioned in the agreement has changed or the consumption of power has**

exceeded the limit of that category as per the tariff order of the Commission or the category has changed consequent to a revision of tariff order, the licensee may suo motu reclassify the consumer under appropriate category.”

- 2) The consumer shall be informed of the proposed reclassification through notice with a notice period of thirty days to file objections, if any.***
- 3) The licensee after due consideration of the reply of the consumer, if any, may reclassify the consumer appropriately.***
- 4) Arrear or excess charges shall be determined based on the actual period of wrong reclassification and the account of the consumer shall be suitably adjusted.***
- 5) If the actual period of classification cannot be ascertained reasonably, the period shall be limited to a period of twelve months or a period from the date of last inspection of the installation of the consumer by the licensee whichever is shorter.***

Here in this case the only question is as to whether licensee has taken timely action to reclassify the consumer category?

The respondent admitted that due to the wrong data entry as a part of the billing computerization was the reason for not changing the tariff category of the appellant. This is not a sufficient reason to issue such a huge bill to the appellant. If the officers of the respondent were negligent in the matter of reclassification of tariff, it is totally unjust to saddle the appellant with the liability to pay huge amount all of a sudden in lump. It is quite surprising to note that the meter reader could not identify the premises as either a hospital or a hostel till the inspection by the APTS team notices the defects. This shows the irresponsible attitude of the staff of licensee in taking readings of the consumers in general.

In this case, if at all any loss sustained to the licensee it is because of the negligence or lapses of the responsible staff of the licensee. Hence it is advisable to conduct an enquiry to find out the reason and the person responsible for the issue. There is no justifiable reason for not changing the tariff category of the appellant as per the tariff order issued by KSERC from time to time. Instead the appellant is mulcted with heavy demand for Rs. 2,85,891.00 for a period of 24 months which is arbitrary, unreasonable and cannot be sustained.

Decision

In view of the above discussions it is concluded that the short assessment bill issued for Rs. 2,85,891.00 is hereby quashed. The respondent is directed to suo motu reclassify the appellant's category with effect from the date of inspection i.e. 22-05-2015 as per Regulation 97(1) of Supply Code, 2014. The appeal filed by the appellant is found having merits and is allowed. The CGRF order No. CGRF-CR/Comp.30/2015-16 dated 08-07-2015 is set aside. No order as to costs.

ELECTRICITY OMBUDSMAN

P/138/2015/ _____ Dated: _____

Forwarded to:

1. Dr. Jose Joseph, Malieckal Puthenpurayil, Krishnapuram, Alappuzha.
2. The Assistant Executive Engineer, Electrical Sub Division, Charummoodu, KSE Board Ltd, Alappuzha.

Copy to:

1. The Secretary, Kerala State Electricity Regulatory Commission, KPFC Bhavanam, Vellayambalam, CV Raman Pillai Road, Thiruvananthapuram-10.
2. The Secretary, KSE Board Limited, Vydhyuthibhavanam, Pattom, Thiruvananthapuram-4.
3. The Chairperson, Consumer Grievance Redressal Forum, Power House, Power House Buildings, Cemeterymukku, Ernakulam-682 018