

THE STATE ELECTRICITY OMBUDSMAN
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APPEAL PETITION NO. P/152/2015
(Present: V.V. Sathyarajan)
Dated: 1st February 2016

Appellant : Sri M.K. Rajeendran
Haritham, Santhivanam,
A.P.C. Road,
Kozhikode

Respondent : The Assistant Executive Engineer,
Electrical Sub Division,
Vatakara North,
KSE Board Ltd,
Kozhikode

ORDER

Background of the case:

The appellant is a domestic consumer with service connection No. 21922 under Electrical Section, Karaparamba. The energy meter in the premises of the appellant was alleged to be not working properly, resulting the appellant was served bills dated 16-01-2014 and 19-08-2014 for Rs. 18,146.00 for 2254 units and for Rs. 15,761.00 for 2039 units respectively. The appellant had filed a representation on 25-06-2014 requesting to revise the said bills in accordance with the previous consumption.

On receipt of the bi-monthly bill dated 19-08-2014 for Rs. 15,761.00 the appellant approached Hon'ble High Court in W.P. (C) 22851 of 2014 which was disposed of by permitting the appellant to approach the Assistant Engineer, Electrical Section, Karaparamba to seek reliefs. After conducting a hearing, the appellant was directed to remit the bill amount and disposed the petition accordingly by the Assistant Engineer, Electrical Section, Karaparamba. Consequent to this, a complaint was made before the CGRF, Kozhikode. The Forum has disposed of the complaint vide order No.79/2014-15 dated 29-07-2015, with a direction as detailed below:

1. "The petitioner shall remit the balance amount outstanding against the bill dated 16-06-2014 amounting to Rs. 18,146.00
2. The bill dated 18-08-2014 for Rs. 15,761.00 is set aside.
3. The respondent shall issue fresh bill for the month of 8/2014 (in place of bill for Rs. 15,761.00) on the basis of the average consumption for the subsequent six months after the replacement of the meter". Aggrieved by the said order, the appellant has filed this appeal petition, before this Authority.

Arguments of the appellant:

The appellant stated that two invoices dated 16-06-2014 for Rs.18,146.00 and dated 19-08-2014 were issued by the respondent. The average consumption for previous period from 17-08-2013 to 19-04-2014 was only 393 units. The appellant had represented the matter to Assistant Engineer, Electrical Section, Karaparamba on 25-06-2014 and he allowed 4 instalments for remitting the bill amount of Rs.18,146.00. On receipt of the next bi-monthly bill amounting to Rs. 15,761.00, the appellant approached the Hon'ble High Court of Kerala which was disposed by permitting the appellant to approach the Assistant Engineer, Electrical Section, Karaparamba. As he did not get a favourable order for his grievance from the Assistant Engineer, the appellant approached CGRF with a petition. The CGRF has directed to examine the meter in an approved testing unit and also instructed to make available a copy of the report to the appellant.

The test report was given to the appellant on 25-07-2015. Since the last hearing was conducted on 02-07-2015 by the CGRF, the appellant had not got the opportunity to present his arguments based on the meter testing report. The basis of the excess billing was due to the irregular function of the meter. Even though the appellant raised this fact before the Assistant Engineer in his complaint and requested for testing with a parallel meter, this was not done. The CGRF not considered the above facts while disposing the petition. The appellant has sought for a relief to revise the bills based on the average of the previous bills.

Arguments of the respondent:

The appellant Sri M. K. Rajeendran is the owner and occupant of the premises having electric connection with consumer No. 21922 under Electrical Section, Karaparamba. He has purchased the residential building with the landed property from Sri Jacob P. Mathew, who is the registered consumer of the above service connection with consumer No. 21922.

On 16-06-2014 an electricity bill has been issued to the appellant for an amount of Rs. 18,146.00 for a consumption of 2254 units. Subsequent to the raising of the above bill the appellant approached the Assistant Engineer, Electrical Section, Karaparamba on 25-06-2014 with a request to examine the hike in consumption. On receipt of the said complaint the Sub Engineer on the very same day inspected the meter at the premises. The said single phase service connection has an electromechanical meter with a capacity of 5-20 Amps, Elymer make with serial No. 4793131.

During the inspection conducted on 25-06-2014, the Sub Engineer found that the hike in consumption of energy occurred due to the earth leakage at the damaged change over switch which is provided at work area of the above residence. On detailed inspection it is also noticed that there is a burn mark at the right side on the fibre insulating rod of the change over switch.

The factum of earth leakage was arrived at and was intimated to the appellant and it is also noted that the appellant arranged an Electrician to replace the damaged

change over switch. The matter was explained to the appellant and as per his request 4 instalments were granted to the appellant to remit the said electricity bill and the appellant has remitted 3 instalments.

On 19-08-2014 the next bi-monthly bill has been issued to the appellant for an amount of Rs. 15,761.00. Due to raising of this bill the appellant approached the Hon'ble High Court for seeking appropriate reliefs. The Hon'ble High court disposed the petition permitting the appellant to approach the Assistant Engineer, Electrical Section Karaparamba to seek reliefs. Also the Hon'ble High court directed to take a decision on the matter after affording the appellant an opportunity for hearing. Accordingly the hearing has been conducted by the Assistant Engineer on 20-10-2014 with the appellant. The appellant stated that the hike in consumption was occurred due to the damage of change over switch which happened due to lightning.

It is submitted that so many domestic connections are provided by the respondent in the area adjacent to the appellant's property and no such complaint has been received in this regard. There was no damage and burn to the weather proof wire or to the energy meter which was first connected to the supply line before the main switch and other installations. In addition to that the fuse wires which are protecting the wiring were not burned. The reason for earth leakage is due to the poor quality change over switch or loose connection in the terminal, so earth leakage is due to the fault of the appellant and he is liable to pay the amount.

After the hearing the Assistant Engineer ordered to remit the entire bill amount because of the bill dated 18-08-2014 also contains excessive consumption due to the earth leakage from 16-06-2014 to 25-06-2014 since the appellant replaced the damaged change over switch on 25-06-2014. It is also added that the bill amounting Rs.18,146.00 was issued on 16-06-2014 and the appellant raised the complaint only on 25-06-2014. Also the appellant has not preferred any complaint against the working of meter at that time.

After receiving the final order the appellant approached Hon'ble CGRF Kozhikode for the redressal of the grievance. As per the direction of the Forum the energy meter was tested on 28-05-2015 at meter testing unit of KSEB at Kannur. The energy meter had been declared as faulty because of the percentage error shows a value which is beyond the percentage error limit.

This result is not an indicative measure of the disputed bill since the percentage error of the meter is only 5.77%. On going through the consumption pattern of the consumer it is understood that prior to the disputed bills the bimonthly consumption of the consumer is about 400 units. If the excessive consumption is due to the error of the meter, it comes around 420 units. But the excessive bills show the reading such as 2254 and 2039 units which are 510% of the average bimonthly consumption of the appellant. Also the bill issued to the appellant for the month 12/2014 shows a consumption of 360 units which was recorded in the same meter.

The Hon'ble CGRF directed to give a copy of test result of the energy meter to the appellant at the last hearing conducted on 02-07-2015 and the same was served to the appellant on 25-07-2015.

The Hon'ble CGRF directed the appellant to pay the first bill amount Rs. 18,146.00 issued on 16-06-2014 and the second bill amounting Rs. 15,761.00 issued on 19-08-2015 was set aside.

As per the clause 65(2) of Kerala Electricity Supply Code, 2014 it is the duty of consumer that "In the event of any defect or leakage of energy being detected in the installation of the consumer or in any apparatus connected to it, the same shall be disconnected forthwith and the incident intimated to the licensee and the Electrical, Inspector."

The various grounds raised in the petition are devoid of merits. The appellant is distorting true facts and has raised untenable grounds for the purpose of filing the petition. The appellant for the purpose of making some grounds for filing the above petition has in a manner put forth certain unsustainable grounds by suppressing the real facts

It is respectfully submitted that the appellant herein has suppressed all material facts before this Hon'ble tribunal and hence the above application is liable to be dismissed with costs to the defendant.

Analysis and Findings: -

The Hearing of the case was conducted on 13-01-2016 in the Court Hall of CGRF, Kozhikode. Sri Rajeeendran M.K., has represented for the appellant and Sri. M.T. Sajeew, Assistant Executive Engineer, Electrical Division, Karaparamba and Adv. Baija P, Standing Counsel of KSEB, have appeared for the respondent's side. On examining the petition, the counterstatement of the respondent, the documents attached and the arguments made during 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, thereof.

The point to be decided is as to whether the energy meter provided to the appellant was faulty during the period and the consumption of 2254 units recorded is in order or not.

On going through the records it can be seen that the disputed energy meter of the appellant was not tested at site by installing a good energy meter (check meter) in tandem with the existing meter; so as to find out whether both meters carry the same electric current and will measure the same energy consumed. The installation of a good meter (check meter), in tandem to existing (disputed) meter to verify the accuracy of the meter is justifiable as per clause 42(3) in KSE Board Terms and Conditions of Supply. The test being done on the consumer's premises with his presence is more convincing than any other documentary evidence that would help the appellant to clear his doubts on the existing meter. However, in this case this was not seen done by the respondent.

When the test is undertaken by the respondent on the consumer's meter, it is the best practice to prepare a site mahazar in proper form and under guidelines issued by

the licensee, in the presence of the appellant or his representative, recording the facts of Check meter installed, the details of both meters with their seals, recording their initial reading etc on the first day and got it witnessed and then leave both meters in service for one weeks time, for joint working. Similarly, after informing the consumer, a final recording of meter readings in his presence, would have cleared the doubts and the said mahazar so prepared will surely be a valid document before any legal Forum. But the respondent failed to do so and the consumer has raised the allegation that the testing was not done properly and the matter remains unsettled.

Here in this case, the Sub Engineer inspected the premises and prepared a report. The finding of the Sub Engineer is that the excess reading in the meter was due to earth leakage and he directed the appellant to rectify this defect. He had not conducted any inspection on the meter. The test report prepared is not witnessed by the appellant or any other persons. But, the licensee should have prepared a mahazar on the test undertaken, in the presence of appellant or his representative. Further, they could have filed a request to the Electrical Inspector to test the meter if the consumer still raises his dispute, on the test done on the meter by the licensee.

A verification of the energy consumption details of the appellant, furnished by the respondent shows that the energy consumption pattern was consistent from 2/2011 onwards. The energy consumption recorded in 4/2011, 6/2011, 4/2012, 6/2012, 4/2013, 6/2013 shows higher consumption of 563, 497, 653, 838, 729 and 1206 units respectively. This may be due to the consumption in summer season. Except those summer season, the consumption of the appellant was below 500 units. The bi-monthly consumption during 6/2014 and 8/2014, have reached abnormal level of 2254 units and 2039 units. Even after rectifying the alleged earth leakage, the next bi-monthly bill also shows high consumption in the meter. Hence the argument of the respondent that the high consumption was due to earth leakage is without any documentary evidence which cannot be fully justified.

It is pertinent to note that the test report of the energy meter revealed that the errors were found beyond the permissible limits and hence the meter declared faulty. Since the exact date of meter faultiness cannot be correctly assessed, it is not just and fair to penalize the appellant merely on the basis of assumption and without any evidence.

As per **Clause 18(2) of the Central Electricity Regulation (Installation & Operation of Meters), 2005** it is the duty of the respondent to check the meter and associated apparatus and to ensure if there is any defect in the installations in order to avoid the possibility of earth leakage. Here, the respondent has tested the appellant's meter only after the directions of CGRF, Kozhikode. The argument of the respondent that the Sub Engineer inspected the premises and detected that the excess consumption due to earth leakage occurred in the premises is without any documentary evidence hence cannot be admitted.

Decision

In view of the above discussions this Authority comes to the conclusion that even without analyzing or finding out the reason for the excess consumption it is not just and

proper to charge the appellant merely on the basis of assumption and without any evidence. Hence it is decided to quash the bill amount for Rs. 18,146.00 issued on 16-06-2014. It is directed to issue revised invoice for the disputed period based on the average consumption for the subsequent 3 billing cycles with effect from the date of replacement of faulty meter. Amount, if any, remitted in excess by the appellant shall be refunded or adjusted against his future bills.

Having concluded and decided as above it is ordered accordingly. The appeal petition filed by the appellant is found having some merits and is allowed to the extent ordered and is disposed of accordingly. The related CGRF order in OP No. 79/2014-15 dated 29-07-2015 is set aside. No order as to costs.

ELECTRICITY OMBUDSMAN

P/152/2015/_____ Dated:_____

Forwarded to:

1. Sri M.K. Rajeendran Haritham, Santhivanam, A.P.C. Road, Kozhikode
2. The Assistant Executive Engineer, Electrical Sub Division, Vatakara North, KSE Board Ltd, Kozhikode

Copy to:

1. The Secretary, Kerala State Electricity Regulatory Commission, KPFC Bhavanam, Vellayambalam, Thiruvananthapuram-10.
2. The Secretary, KSE Board Limited, Vydhyuthibhavanam, Pattom, Thiruvananthapuram-4.
3. The Chairperson, Consumer Grievance Redressal Forum, Vydhyuthibhavanam, KSEBoard Ltd, Gandhi Road, Kozhikode