

THE STATE ELECTRICITY OMBUDSMAN
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APPEAL PETITION NO. P/160/2015
(Present: V.V. Sathyarajan)
Dated: 08th February 2016

Appellant : Sri Vakkachan Thakkolkkaran
Chairman,
Holy Grace Academy of
Management Studies,
Mala

Respondent : The Assistant Executive Engineer,
Electrical Sub Division,
Mala, KSE Board Ltd,
Thrissur

ORDER

Background of the case:

The appellant is a consumer with consumer No. 13794 under Electrical Section, Mala and the service connection effected on 10-04-2006. The appellant had two other connections in the same premises having consumer numbers 9889 under LT VI B and 13128 under LT VII A. The appellant's grievance is stating that he had submitted application for dismantling the above connections after effecting the new connection 13794, on 10-04-2006. But the Assistant Engineer had not taken any action on that application. The appellant had remitted all the bills since received on the said connections due to ignorance. This fact was brought to the notice only while conducting the Internal Audit of the Institute.

These connections were dismantled only on 18-12-2014. The appellant requested to refund the amount paid by him from 10-04-2006 onwards, which was denied by the respondent. Aggrieved against this, the appellant approached the CGRF, Ernakulam by filing a Complaint No. 34/2015-16. But the CGRF dismissed the petition vide order dated 19-08-2015 by holding that the petition is devoid of merits. Not satisfied with the above decisions of CGRF, the appellant has approached this Authority with this appeal petition on 23-09-2015.

Arguments of the appellant:

The appellant stated that prior to effecting the service connection No.13794 under LT VI tariff, he had two other electric connections in the premises with consumer numbers 9889 (3 phase, LT VI B) and 13128 (single phase, LT VII A). After availing the new service connection with consumer number 13794 with additional load on 10-04-2006, the appellant had submitted application to dismantle the above two connections on 10-04-2006 itself. Accordingly the two electric connections were disconnected by the Board Authorities on the same day. Thereafter, the respondent had issued energy bills till 10/2014 and the appellant paid the bills regularly. During the internal auditing of the appellant's institution in 9/2014, it was detected this anomaly and submitted application for dismantling the two connections on 21-11-2014 with necessary fees. When the respondent came to dismantle the connections, the appellant insisted that they would return the energy meter only after getting a proper settlement of issues.

So the appellant approached the Deputy Chief Engineer, Irinjalakkuda with a petition. As per instruction received from the Deputy Chief Engineer, the Assistant Engineer, Electrical Section, Mala prepared a site mahazar, dismantled the energy meters and allowed to keep the meters with the appellant. The final reading recorded in the site mahazar of consumer number 13128 as 257, which was the same as on 10/4/2006 indicating the consumption during the period as 'Nil'. In the meter terminal, service wires were seen disconnected. The site mahazar of the consumer no. 9889 indicated the reading as 'no display' and recorded that there was no load connected to the consumer. The above site mahazars reveals that there was no consumption during the period in question.

The appellant had submitted application on 29-12-2014 before the Assistant Engineer, Electrical Section, Mala to make arrangement to test the dismantled energy meters and to take action to adjust the excess amount paid by the appellant in future energy bills of consumer no. 13794. But the respondent has not taken any action till date. Further, the appellant argued the following:

1. The old connection was disconnected by the respondent on 10-04-2006 itself. Since appellant had not withdrawn the request for dismantle, it is the responsibility of the respondent to dismantle the connection after 6 months of the disconnection.
2. An application to dismantle was given to the Board officials directly when they effecting the new connection in the premises. At that time the Board officials did not direct to remit any fees.
3. The appellant's institution is a charitable trust consisting of 22 members. It is due to oversight the bills were paid by the appellant's staff. This anomaly was detected during the internal auditing.

4. The mahazar prepared on 6-12-2014 shows that there was no connection to the said consumer numbers. It was due to the failure to enter the details of disconnection in the concerned registers in the office caused the issuance of the average current bills by the respondent.
5. The fees for dismantling the connections were remitted on 19-11-2014 along with the petition, but no proper action taken from the part of Board officials.
6. The meter reader had issued the average bills without examining the meters of consumer numbers 9889 and 13128 and it was entered in the meter reading register as 'door locked.' The meters of these connections in the premises were convenient to take reading at any time.
7. The officials had not given any instructions to the petitions filed before them or properly direct the consumer on these issues. So the appellant has requested to refund the excess energy charges remitted by him in respect of the two service connection during the period from 10-04-2006 to 10/2014.

Arguments of the respondent:

The respondent stated that M/s Holy Grace Academy of Management studies, Mala is a self financing educational institution situated in the jurisdiction of Electrical Section, Mala. The institution is at present having an LT 3 phase connection with consumer No. 13794 under LT VI F tariff. This connection was effected on 10-04-2006 with a connected load of 76 KW soon after construction of buildings and by installing a transformer under OYEC scheme.

Initially there were two electric connections in the landed property of the institution as detailed below.

1. Con. No. 9889 LT 3 phase under LT VI B tariff with a connected load as per records is 2238 Watts registered in the name of Sri. Varghese V.D., Vazhapilly (H), Kottamuri, Mala.
2. Con. No. 13128 LT Single Phase under LT VII A tariff with a connected load as per records 846 watts in the name of the Executive Director, Holy Grace Foundation, Mala.

The bills for consumption of energy based on the meter readings taken monthly for con. No. 13194 and bimonthly for the other two were being paid by the consumer in time. In November 2014, One Sri K.P. Davis, retired

Assistant Executive Engineer of Kerala State Electricity Board who happens to be in the management of the above institution approached the Assistant Engineer, Electrical Section Mala, with a letter cited as ref. (2) above in which it was stated that electric connection under Con No.13794 had been obtained on 10-04-2006 and the existing connections under Con. Nos.9889 and 13128 were disconnected on the same day. But the bills issued for these connections thereafter were remitted in KSEB without understanding the matter of the above said disconnection. It was also mentioned in the above letter that the bills issued for Con. Nos. 9889 and 13128 for the month of 11/2014 were not remitted and requested to stop issuing of bills for these connections in future. The bearer of the letter Sri K.P. Davis also informed the Assistant Engineer that the connection under con No.13794 with a connected load of 76 KW is enough to meet the entire load of the institution and the connections under Con Nos. 9889 and 13128 were no more required.

As per Board's procedure, issue of bills can be stopped only if the connections are dismantled permanently and dues cleared. Issue of bills cannot be stopped if connections are simply disconnected, i.e. there is clear differentiation between "disconnection" and "dismantling". The required fees for honouring the application were collected from the applicant on 21-11-2014 and the Assistant Engineer arranged the line staff for physical dismantling of these connections on the same day. It may be noted that even though it is not literally mentioned in the application about the term "dismantling of connections", the request to stop the "issuing of bills" is possible only if the connections are retrieved physically and entries in the office records are accordingly made thereupon. But the representative of the appellant Sri K.P. Davis present in the premises prevented the line staff from the activities of retrieving the connections on the plea that physical situation of the connections were to be got recorded in writing by responsible officials of KSEB and therefore the line staff were forced to abandon their activity.

Thereafter, the appellant approached the Deputy Chief Engineer, Electrical Circle, Irinjalakkuda and as per his instructions the Assistant Engineer, Electrical Section Mala along with the Sub Engineer visited the site on 06-12-2014, prepared a site Mahazar in the presence of Sri. K.T Benny, Secretary of the Institution and a copy was served on him. The two service connections were subsequently dismantled on 18-12-2014. Sri K.P Davis, a representative of the appellant, prevented the line staff from lifting the two energy meters of the dismantled connections from the premises on the plea that the meters were to be tested and he took both the meters in his custody under a written receipt from Sri V.I. Vakkachan (Chairman of the institution).

The energy meters installed in the premises of consumers are Board's properties and consumers have no right to keep them in their custody. If the consumer suspects the accuracy of meters etc and desires to test them, Board will arrange for the same in its TMR units after realizing the fees prescribed as per the prevailing rules. Even though the representative of the

appellant, Sri. K.P. Davis pretty well knows these procedures by virtue of his decade's long service in KSEB, the Assistant Engineer, Mala had explained the matter to them in detail but he was reluctant to co-operate, and, instead lodged a petition. In this petition it was mentioned that they had submitted an application on 10-04-2006 i.e. (the date of connection of consumer No. 13194) for dismantling of the existing connections under consumer No. 9889 and 13128 which were remaining disconnected before that date and the bills issued for these connections were remitted and the matter was noticed while auditing the accounts in Sept. 2014. When the matter was brought to the notice of the Assistant Engineer, Mala by them he had directed to apply for dismantling which had been done on 19-11-2014 and required fee remitted. The dues remitted for these connections from 4/2006 onwards were requested to be adjusted in future bills of consumer No. 13794.

The Assistant Engineer, Electrical Section, Mala informed the appellant that application for dismantling of connections under con. Nos. 9889 and 13128 had not been received in his office in 4/2006 and hence not dismantled. He also mentioned in the above letter to return the two energy meters to the Section Office and remit necessary fees for enabling testing of the meters, if required so. These directions were discarded by the appellant and instead approached the "Consumer Grievance Redressal Forum", Ernakulam, The Forum after examining the pros and cons of the dispute exhaustively and also conducting a hearing of both sides on 24-07-2015 issued orders. As per this order the appeal petition is dismissed being as devoid of any merit.

In the above scenario, the respondent submitted the following points for consideration for disposal of the dispute.

The petitioner had not given any application for dismantling the existing connections under consumer No 9889 and 13128 to Kerala State Electricity Board at any time from 10-04-2006 i.e. the date of the connection under consumer No 13794 till 11/2014. If such an application had been given, why did they remit the current charges for a long span of 8 years and more time? If such an application had been given, the applicant will be required to remit application fee etc as is done for the one they had given on 19-11-2014. They have not produced any proof for remittance of such fees etc for the one said to be given on 10-04-2006 copy of such an application said to have been given and found attached with the petition under ref (1) above is to be considered as fabricated document in order to establish their claim for refund of the current charges from 04/2006 onwards.

The service connection under consumer No 9889 and 13128 were neither disconnected nor dismantled at any time from 04/2006 onwards till 18-12-2014 (date of dismantling). The petitioner is wilfully trying to confuse between the terms "disconnection" and "dismantling" as had been explained earlier.

Both consumer Nos. 9889 and 13128 were "live" connections until they were dismantled physically on 18-12-2014 and energy from both were under use by the consumer and the respondent has attached meter reading profile of these connections. The CGRF, Ernakulam had physically verified the meter reading register of these connections and got convinced about the consumption of energy during the disputed period while considering the petition before disposal.

The current charges of the disputed connections are said to be remitted by mistake from 04/2006 onwards, which is said to be detected during their internal audit held in 09/2014. It is needless to mention that the lapse is on part of the appellant. KSEB is always very liberal in honouring applications from consumers either for disconnection or for dismantling. A close perusal of development in his demand for refund of the current charges remitted for these connections from 04/2006 noted in his applications/petitions reveals unjustifiable attempt to establish the claim. The petitioner is cleverly fabricating false documents and statements in a chronological manner. He is also attempting to vest the burden of lapse occurred on part of the consumer to KSEB which is ungenueine.

In the above circumstances, the respondent requested to disallow the demands of the petitioner for refund of the current charges remitted by them for the consumer No 9889 and 13128 from 04/2006 onwards till the date of dismantling them on 18-12-2014.

Analysis and findings

A hearing of the case was conducted in my chamber at Edappally, Ernakulam, on 16-12-2015. Sri Peter K.T. and Sri Davis Kavolakkat were present for the appellant's side and Sri Manoj M.C., Assistant Engineer, Electrical Section, Mala represented 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.

The major contention of the appellant is that they submitted letter dated 10-04-2006 before the respondent requesting dismantling of service connection No. 9889 and 13128. The respondent denied the receipt of any such letter on 10-04-2006 or any other date. In this connection a close perusal of letter dated 10-04-2006 does not show the details or signature or any remarks from the officers of the respondent. It is also pertinent to note that receipt for remittance of application fee is not produced along with that letter. The subsequent conduct of the appellant in remitting the energy charges for subsequent period up to 2014 also reveals that, if the appellant had submitted a letter for dismantling the service connections a normal person will enquire about the development before remitting the subsequent bill. In this background the appellant's version that he had submitted letter

dated 10-04-2006 for dismantling the two service connections cannot be believed or accepted.

The consumer Nos. 9889 and 13128 were dismantled only on 18-12-2014 on the proper application made by the appellant on 21-11-2014. So the liability to pay the energy charges for these two service connections were on the appellant up to the date of dismantling. **Here, the question is what the amount is liable to be charged on the appellant.**

The consumption pattern of the appellant is as follows:

Consumer No. 9889		Tariff LT VI B		Consumer No. 13128		Tariff IT VII A	
Date	IR	FR	Consumption in units	Date	IR	FR	Consumption in units
06-02-2008	912	912	0	06-02-2008	14875	14875	2
05-04-2008	912	912	0	05-04-2008	14875	14875	57
09-06-2008	912	912	0	22-04-2008	1	3	2
07-08-2008	912	912	0	09-06-2008	3	5	2
06-10-2008	912	951	39	07-08-2008	5	28	23
04-12-2008	951	952	1	06-10-2008	28	36	8
05-02-2009	952	952	0	04-12-2008	36	38	2
04-04-2009	952	952	14	05-02-2009	38	38	0
09-06-2009	952	952	5	04-04-2009	38	41	3
30-06-2009	7	7	0	09-06-2009	41	43	2
07-08-2009	7	7	0	07-08-2009	43	47	4
07-10-2009	7	7	0	07-10-2009	47	50	3
07-12-2009	7	8	1	07-12-2009	50	52	2
05-02-2010	8	8	0	05-02-2010	52	207	155
09-04-2010	8	8	0	09-04-2010	207	228	21
07-06-2010	8	8	0	07-06-2010	228	231	3
06-08-2010	8	8	0	06-08-2010	231	231	60
06-10-2010	9	9	0	06-10-2010	231	231	60
07-12-2010	9	9	0	07-12-2010	231	257	78
23-02-2011	9	9	0	23-02-2011	257	257	60
20-04-2011	9	9	0	20-04-2011	257	257	60
23-08-2011	9	9	0	23-06-2011	257	257	60
20-10-2011	9	9	0	23-08-2011	257	257	60
23-12-2011	9	9	0	20-10-2011	257	257	60
23-02-2012	9	9	0	23-12-2011	257	257	60
19-04-2012	9	9	0	23-02-2012	257	257	60
16-06-2012	9	9	0	19-04-2012	257	257	60
18-08-2012	9	9	0	16-06-2012	257	257	60
20-10-2012	9	9	0	18-08-2012	257	257	60
19-12-2012	9	9	0	20-10-2012	257	257	60
19-02-2013	9	9	0	19-12-2012	257	257	60
23-04-2013	9	9	0	19-02-2013	257	257	63
26-06-2013	9	9	0	23-04-2013	257	257	60
20-08-2013	9	9	0	26-06-2013	257	257	60
19-10-2013	9	9	0	20-08-2013	257	257	60
19-12-2013	9	9	0	19-10-2013	257	257	60
21-02-2014	9	9	0	19-12-2013	257	257	64
26-04-2014	9	9	40	21-02-2014	257	257	60
24-06-2014	9	9	40	26-04-2014	257	257	60
23-08-2014	9	9	40	24-06-2014	257	257	60
24-10-2014	9	9	40	23-08-2014	257	257	60
22-12-2014	9	9	1	24-10-2014	257	257	60
				22-12-2014	257	257	8

On a perusal of the consumption pattern of the appellant it can be seen that practically no energy is consumed in these 2 service connections after enhancing the connected load to 75904 Watts in the service connection with consumer No. 13794 on 23-10-2008. There is no justification on the part of respondent for retaining the 3 service connections simultaneously in this premises. Also there is no rational in keeping alive the service connection with consumer Nos. 9889, 13128 after effecting a service connection with consumer No. 13794. It is also relevant to note that the service connection with consumer No. 13128 under LT VII A tariff was issued for the construction purpose of the institution. When the appellant completed the construction and regularised the new service connection with additional load I am unable to understand why the service connection given for construction purpose is retained thereafter.

The respondent issued new service connection with consumer No. 13794 to the same premises where a service connection with consumer No. 9889 exists. The failure in discharging the duties of the officers of the respondent is crystal clear since they failed to verify the individual equipments connected to the system at the time of regularising the additional load. There is no justification in issuing more than one connection for the same premises for the same purpose. This shows clear violation of the Electricity Act and Supply Code Regulations. The recording in the meter reading register that the premises is under "**door lock**" is nothing but a manipulated story to cover up the lapses on the side of respondent because the appellant's premises is a running institution. On my personal inspection, I found that the meter is kept in a place which is easily accessible for inspection and taking readings by the officers of the respondent. In this background the bi-monthly bills issued to the appellant based on average consumption, treating the meter as **suspected faulty** is found unreasonable.

So a probable conclusion can be arrived in this case is that the meter installed in the premises was in working condition but the premises was not in use. Even if the premises was working it is the bounden duty of the respondent to conduct proper inspection to ascertain the usage of the energy in the appellant's premises. Moreover, it is the duty of the respondent to replace the meter, if found faulty. In the above circumstances I am of the view that the service was not in use by the appellant having consumer No. 13128 from 06-08-2010 onwards and consumer No. 9889 with effect from 09-06-2009, i.e. from the alleged meter faulty periods. Hence there is no justification for charging the appellant based on the average consumption for the above periods.

Decision

Hence the respondent is directed to revise the invoices issued to the appellant for fixed charges and meter rent for period from 06-08-2010 to 18-

12-2014 for the service connection 13128 and from 09-06-2009 to 18-12-2014 for 9889. It is also directed to refund/adjust the excess amount, if any, received from the appellant by way of average consumption basis. This must be done without any delay at any rate within 30 days from the date of receipt of copy of this order.

Having concluded and decided as above it is ordered accordingly. The appeal petition filed by the appellant is admitted. The CGRF order dated 19-08-2015 is set aside. No order as to costs.

ELECTRICITY OMBUDSMAN

P/160/2015/ _____ Dated: _____

Forwarded to:

1. Sri Vakkachan Thakkolkaran, Chairman, Holy Grace Academy of Management Studies, Mala, Thrissur.
2. The Assistant Executive Engineer, Electrical Sub Division, Mala, KSE Board Ltd, Thrissur.

Copy to:

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