

THE STATE ELECTRICITY OMBUDSMAN
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APPEAL PETITION NO. P/181/2015

(Present: V.V. Sathyarajan)

Dated: 19th April 2016

Appellant : Smt. Marykutty Thomas
 Peedikaparambil House,
 Thiruvanchoor P.O.,
 Kottayam.

Respondent : The Assistant Executive Engineer,
 Electrical Sub Division,
 KSE Board Ltd,
 Kottayam Central,
 Kottayam District.

ORDER

Background of the case:

The appellant, Smt. Marykutty Thomas, is a consumer under Electrical Section, Kottayam East with consumer No 17018 under LT IA tariff. On 20-08-2014 the APTS Kottayam unit conducted an inspection in the appellant's premises and detected theft of electricity. Consequent to that a penal bill amounting to Rs. 29,000.00 towards the penalty under Section 135 of the Electricity Act, 2003 was served on the appellant and the same was remitted. Later, the appellant had filed complaint before the higher officials of the KSEB Limited against the irresponsibility and negligence of the Lineman and Overseer whose action caused accusation of theft of energy and for the remittance of penal charges.

The appellant also approached the CGRF by filing a petition for taking appropriate action against the alleged staff of licensee and the Forum in its order dated 18-11-2015 in OP No.1534/2015 held that *“This petition is against a particular staff of the licensee, who had committed mistake, which caused grievances to the consumer. The licensee had already taken steps for action. This Forum has no power or jurisdiction to take action against the staff of the licensee, who had committed mistake against the consumer, during the course of his employment. However the Forum directs the licensee to take immediate steps for redressing the grievances of the petitioner with an open mind.”* Not satisfied with the above order, the appellant has filed this appeal petition before this Authority.

Arguments of the appellant:

The appellant has raised the following grievances in her appeal petition.

According to her, the then Overseer of the Electrical Section, Thiruvanchoor is also responsible as well as the Lineman, Santhosh and requested for taking action against the Overseer also. It is also stated that the Overseer had taken action against the appellant by reporting to the APTS even without verifying the complaint registered in the Section Office complaint book. Due to the irresponsible and negligent actions of the Lineman and Overseer, the appellant was charged for theft of electricity which defamed the status of the appellant in the society and among the relatives. Hence the appellant requested to allow compensation for the defamation and also to take stringent action against the staff concerned. Further the appellant requested to refund the penalty amount of Rs. 29,000.00 already remitted by her.

Arguments of the respondent:

The appellant is a consumer under Electrical Section, Kottayam East with consumer No 17018. This is a single phase connection under LT IA tariff. On 20-08-2014 the APTS Kottayam unit conducted an inspection at the appellant's premises and detected theft of electricity. In this connection a penal bill was served to the consumer and was remitted. Also for avoiding criminal offence the consumer remitted the compounding amount with protest. According to the consumer, the said tampering was not done by any of the occupants rather this might have been a mistake occurred from the KSEB staff while rectifying the defects which occurred three weeks back.

Hence the consumer approached the Executive Engineer, Electrical Division, Pallom and the Chief Vigilance Officer, Vydhyuthi Bhavanam, Pattom Thiruvananthapuram. An enquiry in this regard was conducted by the Vigilance Wing of KSEB Limited and a detailed report was forwarded to the Executive Engineer, Electrical Division, Pallom for further necessary action. In compliance with the vigilance report, the Executive Engineer initiated disciplinary action against the accused Lineman. There is no fault against the Overseer in the enquiry report. So no disciplinary action was taken against the Overseer.

In the light of above submission it is requested that petition of appellant may be rejected.

Analysis and findings

A hearing of the case was conducted in my chamber at Edappally, Kochi on 16-03-2016. Smt. Marykutty Thomas was present for the appellant's side and Sri. Babujan S., Assistant Executive Engineer, Electrical Sub Division, Kottayam Central 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.

During the hearing, the appellant has stated that there is frequent voltage drop in her house and registered a complaint in the Section Office. On the basis of this, some rectification works were carried out by the lineman. While taking the meter reading the meter reader noticed the through connection which caused accusation of theft of energy and subsequent penalization. The appellant's contention is that bimonthly consumption is at minimum and the current charge is below Rs. 450.00. She further contented that the Lineman and Overseer are responsible for the accusation of the charge of theft of energy and requested to take action against them and to allow compensation for the mental agony caused to her in this connection.

The respondent has stated that on the basis of the enquiry conducted by the Chief Vigilance Officer in this case directed the Executive Engineer, Electrical Division, Pallom to initiate disciplinary action against those who involved in this case. The appellant was penalized on the basis of the inspection conducted by the APTS team who detected a through connection in the premises and has taken action as per Section 135 of Electricity Act, 2003.

On going through the records, it can be seen that a Memo of Charge was served on Sri Santhosh, the Lineman for the dereliction of duty and negligence. But the preliminary enquiry conducted by the Vigilance Officer has not revealed any involvement of the Overseer in the instant case. However, as a Supervisory Officer, the Overseer has also the responsibility to examine the works of his subordinates. It is also pertinent to note that the APTS team had not conducted the inspection in a transparent, fair and free of prejudice manner in the premises of the appellant. They have not considered the fact that anomalies detected at consumer premises which are attributable to the supplier like metering inaccuracies shall not attract provisions under Section 126 or 135.

It is clear that there is provision for compensation for breach of guaranteed standards of performance by the licensee, the instant case not comes under the purview of the nature of breach of guaranteed standard of performance. It may also be noted that the Ombudsman and CGRFs have no power or jurisdiction to take disciplinary action against the staff of the licensee, who had committed dereliction of duty and negligence during the course of his employment. This is a case of negligence and irresponsible action on the part of the employees of the licensee which have to be dealt by the licensee. Further, any such disputes pertaining to bills raised under Section 126 of Act are not maintainable before CGRF and Electricity

Ombudsman by virtue of Clause 2(1)(f)(vii)(1) of KSERC (CGRF & Electricity Ombudsman) Regulations, 2005.

However, without going deep into the merits of the case this Authority is of the view that the respondent had exceeded their powers in booking the case under Section 135 of the Act and in raising the bill for the offence of theft of electricity. It is also felt that the Assessing Officer disposed the appeal even without applying mind to do justice to the appellant in assessing huge amount to the tune of Rs. 29,000.00. Hence I feel that the Assessing Officer needs to review the case.

Decision

This is a clear case of negligence and irresponsible action on the part of the employees of the licensee. The respondent had exceeded their powers in booking the case under Section 135 of the Act and in raising the bill for the offence of theft of electricity. As this Authority have no power or jurisdiction to take disciplinary action against the staff of the licensee who had committed dereliction of duties and negligence in this case, it is decided to direct the licensee to take appropriate action against the staff concerned.

It is also directed to review the case of the appellant after applying mind to do justice and to refund the huge amount collected from the appellant. Having concluded and decided as above it is ordered accordingly.

ELECTRICITY OMBUDSMAN

P/181/2015/_____ /Dated:_____

Delivered to:

1. Smt. Marykutty Thomas, Peedikaparambil House, Thiruvanchoor P.O., Kottayam.
2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Ltd, Kottayam Central, Kottayam District.

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, KSE Board Ltd, Kottarakkara - 691 506.