

THE STATE ELECTRICITY OMBUDSMAN
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APPEAL PETITION No. P/047/2017

(Present: A.S. Dasappan)

Dated: 17th July 2017

Appellant : Sri. K.V. Sunil,
General Manager (P&A),
Kerala Electrical and Allied
Engineering Co. Ltd.,
Panampilly Nagar,
Ernakulam

Respondent : The Assistant Executive Engineer,
Electrical Sub Division,
KSE Board Ltd., College,
Ernakulam District

ORDER

Background of the case:

The registered and corporate office of the Kerala Electrical & Allied Engineering Company Ltd., (KEL), is functioning on rental basis in the 7th floor of the Housing Board Office Complex, Panampilly Nagar, Cochin-36. The appellant having consumer No. 7243 was assigned LT VI B tariff, with a connected load of 10000 watts, under the jurisdiction of Electrical Section, Girinagar. The Regional Audit Officer of the KSEB noticed the anomaly on inspection of Records in 07/2016 and objected classification of the consumer under LT VI B category instead of LT VII A. The respondent changed the tariff from LT VI B to LT VII A commercial and a notice and short assessment bill for Rs.152193/- was issued to the appellant along with a detailed calculation statement.

A petition filed under Petition No.128/2016-17 before the CGRF, Ernakulam, by the appellant was dismissed and held that the short

assessment bill issued is in order. Aggrieved by this Order, the appellant has submitted the appeal dated 25-04-2017 before this Authority.

Arguments of the appellant:

The arguments of the appellant are based on the brief facts and circumstances which are narrated above. The main contentions of the Appellant in the Petition are the following.

The company has been remitting bills relating to Electricity consumption hither to in time. If it all any change in bill has to be effected the same may be done within one month of raising bill by KSEB. As per existing procedures followed by KSEB they will be of liberty to disconnect the electricity connection if payment is not effected within one month of receipt of bill and the consumer has to bear reconnection charges, penalty, damages at will and pleasure of the KSEB. So raising an additional bill after a lapse of two years in the pretext of changing service category is time barred and amount to harassment to the consumer. Further the same is devoid of merit and unlawful also. KSEB has not submitted any documents to substantiate their claim for arrears for the past two years. So the customer is kept in dark about authenticity of claim of KSEB.

If at all KSEB want to change tariff in order to comply with regulations governing KSEB they may do the same by prospectively giving due notice to the consumer (KEL). At any rate the KEL need not be made to suffer for the belated action of KSEB directing to effect excess bill for retrospective period from December 2014 to November 2016 i.e. two years for a total amount of Rs. 1,52,113/-.

KEL is a Public Sector Undertaking fully owned by Government of Kerala and may be extended special consideration / exemption from remitting difference in charges for an amount of Rs. 1,52,113/- owing to tariff change now raised by KSEB.

KEL has been incurring heavy loss for many years now. The audited accumulated loss is Rs.1725.83 lakhs as on 31/03/2016. The company is in severe financial difficulty and is unable to disburse even statutory payments regularly.

It is requested to consider the case of KEL and issue favourable order as the claim of KEL is genuine.

Arguments of the respondent:

1. All the averments and allegations in the Appeal except that are specifically admitted hereunder are denied being false.

2. The above Appeal is not maintainable either in law or in facts on the other hand appellant filed this appeal with an ulterior motives of evade from payment without justification against a lawful demand raised against the appellant.

3. The allegation and averments contained in the first Para of the appeal is baseless and against laws and rules hence the respondent denied. It is respectfully submitted that the appellant is a consumer under the jurisdiction of the second respondent bearing consumer No. 7243. The additional demand of Rs. 1,52,193/- raised against the appellant is on the basis of the internal audit conducted by the Regional Audit Office, Ernakulam. It is respectfully submitted that KSEB Ltd has the authority to recover under charged amount from the consumer as per Regulation 134 of the Kerala Electricity Supply code 2014. The Appellant lodged complaint No: 128/2016 against the lawful demand of Rs.1,52,193/- before the Hon'ble CGRF, Ernakulam which was dismissed. It is submitted that the respondent issued a demand notice amounting to Rs. 1,52,193/- to the Appellant based on the order of the Hon'ble CGRF dated 20-04-2017.

4. The allegations and averments contained in Para 2 of the appeal are baseless and against laws and rules hence the respondent denied. It is respectfully submitted that the KSEB Ltd has the right to recover the under charged amount for a periods of 2 years as per Regulation 152 of The Kerala Electricity Supply Code 2014. It is submitted that the authority of the KSEB Ltd to recover the under charged amount from consumer as per regulation 134 of the Electricity Supply Code 2014 for the period of two years as per regulation 152 of the Kerala Electricity supply code 2014 up hold by the Hon'ble CGRF. The Hon'ble Kerala Electricity Ombudsman recently on the similar issue in the appeal petition between Thomas Maradu, Ernakulam v/s Deputy Chief Engineer, Electrical Circle, Ernakulam & Others decided to uphold the findings of Hon'ble CGRF, Ernakulam that the short assessed bill issued as per regulation 152 of the Kerala Electricity Supply code 2014 is in order.

5. Regarding Para 3 of the appeal, it is submitted that it is not possible to exempt from the payment of a lawful demand raised against the consumer on the ground that the consumer is public sector unit or owned by the Government. For the reasons stated above it is humbly prayed that this Hon'ble Kerala Electricity Ombudsman may be pleased to accept the contentions of this respondent and dismiss the appeal petition with cost.

Analysis and findings

Hearing of the case was conducted on 07-07-2017 in my chamber at Edappally, Kochi. Sri K.V. Sunil, General Manager, KEL and Sri Ibrahim Sherif Assistant Manager (P&A), KEL represented the appellant's side. Sri Emerson

P.A., Assistant Executive Engineer, Electrical Sub Division, College represented the respondent's side. Hearing the arguments of appellant and respondent, perusing the petition, statement of facts and other documents and considering all the facts and circumstances of the case, this Authority comes to the following conclusions.

The only question to be decided in this case is as to whether tariff applicable to the office of KEL is LT VII A or LT VI B. When the connection was granted originally to the appellant's premises, it was categorized under LT VI B tariff.

The categorization of tariff clearly shows that LT VI B tariff is applicable to offices and institutions under State / Central Government Corporations, Boards under State / Central Government / Local Bodies, KWA, KSRTC etc. The connection bearing consumer No. 7243 is utilized by an office of the said institution for facilitating the office works. No commercial and profit oriented nature of work is being conducted in that office. It is claimed to be an administrative office. The respondents have not been able to substantiate their argument that commercial nature of work is carried out in that office.

The respondent has argued that the authority of the KSEB Ltd. to recover the under charged amount from consumer as per regulation 134 of the Electricity Supply Code 2014 for the period of two years as per regulation 152 of the Kerala Electricity supply code 2014 up hold by the Hon'ble CGRF. But the dispute to be settled in this case is whether the re-categorisation of tariff done by the respondent is correct as per the tariff rules. If it is not correct, there is no possibility for applying the regulations of 134 and 152 of Supply Code 2014 in this case.

In this case there is no dispute that the appellant's office is a Kerala state government company working in the said building since 1978 and the tariff applicable to such an office is LT VI B –non domestic category. Considering facts of the case, as it was a Govt. body and the request seem to me as genuine, I am of the view that the request is reasonable. The appellant is a Govt. organization and therefore the eligible tariff is LT VIB-Non domestic.

Decision

From the analysis done above and the conclusions arrived at, I take the following decisions.

From the conclusions arrived at as detailed above, I am fully convinced that the request of the appellant is reasonable and justifiable. Hence, I decide that the order of the CGRF stands quashed. The short assessment bill amounting to Rs. 1,52,193/- issued to the appellant, by way of commercial

tariff, for a period of 2 years, is set aside. The respondent is directed to reassign the tariff of the appellant under LT VI B.

Having concluded and decided as above it is ordered accordingly. The Appeal Petition filed by the Consumer is allowed as ordered and stands disposed of as such. No order on costs.

ELECTRICITY OMBUDSMAN

P/047/2017/ _____ /Dated: _____

Delivered to:

1. Sri. K.V. Sunil, General Manager (P&A), Kerala Electrical and Allied Engineering Co. Ltd., Panampilly Nagar, Ernakulam
2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Ltd., College, Ernakulam 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, CGRF-CR, 220 kV, KSE Board Limited, Substation Compound, HMT Colony P.O., Kalamassery, PIN: 683 503.