

THE STATE ELECTRICITY OMBUDSMAN
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APPEAL PETITION No. P/060/2017

(Present: A.S. Dasappan)

Dated: 19th September 2017

Appellant : Smt. Archana V.S.
Prnavam, TC 24/1205-1,
Parambakonam,
Nagarkavu Road,
Kawadiar P.O.,
Thiruvananthapuram

Respondent : The Assistant Executive Engineer,
Electrical Sub Division,
KSE Board Ltd, Vellayambalam,
Thiruvananthapuram

ORDER

Background of the case:

The Appellant, Smt. Archana V.S. is a registered consumer of Electrical Section, Peroorkada having Consumer No. 32149 under Electrical Sub Division, Vellayambalam. The appellant has applied for a three phase electric connection under domestic tariff. The appellant was directed to remit an amount of Rs. 27,240/- as per the estimate prepared for effecting the service connection and he had remitted amount under protest along with security deposit of Rs. 2,400/-. The complaint of the appellant is that the respondent collected excess amount towards the expense of electricity supply than the amount authorized under the regulation in Supply Code. Being aggrieved, she filed petition before the CGRF, Kottarakkara and not satisfied by its decision to dismiss the petition, the appellant has filed the appeal petition.

Arguments of the appellant:

1. This appellant had applied for electricity supply vide application No. 2145081600296 dated 12-07-2016. Since no action was taken on the application despite repeated request to the Assistant Engineer, an appeal under Clause 80 of Supply Code, 2014 was submitted to the Assistant

Executive Engineer, Electrical Subdivision, Vellayambalam dated 23-08-2016. (Exhibit P1). Thereafter, the Assistant Engineer issued a screen shot copy of amounts to be remitted for electricity supply dated 28-09-2016. (Exhibit P2). After receiving Exhibit P2 document this appellant requested to issue detailed estimate dated 30-09-2016. (Exhibit P3). The Assistant Engineer issued the detailed estimate under a covering letter dated 05-10-2016 (Exhibits P4A & P4B).

2. Thereafter stating all facts on the matter, this appellant submitted a letter of protest and remitted Rs. 27,240/-, along with security deposit of Rs. 2,400/- and thereafter electricity was supplied. Copy of the letter of protest and cash receipt for Rs. 27,240/- and Rs. 2,400/- are produced (Exhibit P5A, P5B & P5C)

3. This appellant submitted a letter requesting the Assistant Engineer to evaluate the works and refund the excess amounts collected dated 01-11-2016. (Exhibit P6). The Assistant Engineer without evaluation communicated a letter stating that it is not possible to refund any amounts. (Exhibit P7).

4. In this matter it is respectfully submitted that, three phase electricity supply to this appellant was to be provided from electric post P/BC 8/13/5 at which another six numbers of electric connection were already provided. This single phase distributing main terminated post P/BC 8/13/5 is tapped from the three phase line 128 meters away. Other connections are also given from this single phase distributing main. Copy of a diagram detailing the single phase distributing main, which was upgraded is produced (Exhibit P8).

5. Exhibit 4B estimate contain two parts. One part, amounting to Rs. 4,200/-, which is the cost applicable for the weather proof portion up to and including 10 kW. The other portion amounting to Rs. 23040.00 is for upgrading 128 m of single phase line to three phase line. Under Clause 35 of Supply Code, 2014, "the expenditure for extension or up-gradation or both of the distribution system to be borne by the licensee". Also this consumer never belong the category of consumers who shall bear the expenditure for extension or upgradation or both of the distribution system as detailed under Clause 36 of Supply Code, 2014. Thereby collection of Rs. 23040.00 towards the expenses to upgrade single phase distributing main to three phase distributing main from this appellant is unauthorized and illegal. On the above reasons and other to be urged during the hearing, the licensee shall refund Rs. 23040.00 along with interest at twice the bank rate with effect from the date of collection until the date of refund.

The order was released dated 06-03-2017, however it was delivered to this appellant only on 11-05-2017 Thereby no delay has been made in filing this appeal.

Nature of relief sought from the Ombudsman

1. To call for the documents and issue order to refund Rs. 23040.00 along with interest at twice the bank rate with effect from the date of collection and until the date of refund.
2. To pay the cost and expenses of the petition which the Hon: Forum may find it adequate.
3. Such other relief the appellant prays for, during the course of appeal.

Arguments of the respondent:

The Appellant has requested for detailed estimate for service connection on 30-09-2016 to the Assistant Engineer, Electrical Section, Peroorkada and the detailed estimate was served to her vide Letter No. DB-AE (ES/PKDA)/2016-17/11 dated 05-10-2016.

The estimate was prepared by the AE, ES, Peroorkada based on the revised rates for Distribution Works for 2016-17 approved by the Hon'ble KSERC. The detailed estimate comprising of two portions, viz., first portion- *conversion of 1 phase 2-wire line to 3 phase, 4-wire line for the required length of 128 m* and second portion- *15 m of LT 3-phase Weather Proof service line.*

On the receipt of the demand for Rs. 27,240/- on 05-10-2016, the consumer had filed an objection on 07-10-2016, stating that the conversion portion from 1 phase to 3-phase to be done by the Licensee and the consumer shall liable to pay only the amount in respect of the W/P portion of the estimate.

In the meantime on 07-10-2016, the applicant had remitted the estimate amount of Rs. 27,240/- along with relevant fee for effecting the 3-phase service connection and the supply was effected on 18-10-2016. Subsequently, on 01-11-2016, the appellant was submitted a request for refund of the amount collected towards conversion portion of the estimate amounting to Rs. 23,040/- alleging that this expenditure is to be borne by the Licensee as per Supply Code Regulations.

Regulation 32 of Supply Code, 2014 stipulates that:

32. Recovery of expenditure.- (1) The licensee may recover from the owner or lawful occupier of any premises requiring supply, the expenditure reasonably incurred by the licensee for providing from the distributing main, any electric line or electrical plant required exclusively for the purpose of giving that supply:

Provided that, the licensee shall not be entitled to recover such expenditure if such expenditure is incurred under any scheme approved by the Commission:

Provided further that, the licensee may exempt any person requiring connection from the payment of expenditure if the State Government directs the licensee to provide new electric connection to any category of consumers and pays in advance to the licensee, the expenditure at the rates in the cost data approved by the Commission.

(2) The expenditure charged by the licensee shall be based on the cost data approved by the Commission and published by the licensee effective for the period mentioned therein.

(3) The licensee shall not include the cost of meter while preparing the estimate of the expenditure to be recovered from the consumer under sub regulation (1) above.”

Thus, Regulation 32 empowers the licensee to recover *the expenditure reasonably incurred for providing from the distributing main, any electric line or electrical plant required exclusively for the purpose of giving that supply.* Also it specifically says that the expenditure thus charged by the licensee shall be based on the cost data approved by the Hon’ble Commission. Here as a Licensee, KSEB Ltd. collected the reasonable expenditure legally payable by the Appellant as per the estimate prepared based on the prevailing cost data for providing 3-phase supply from the distributing main. Also, Regulation 35 of Supply Code, 2014 says that :

“35. Expenditure for extension or upgradation or both of the distribution system to be borne by the licensee.- The expenditure for extension or upgradation or both of the distribution system up to and including the distributing main, for meeting the demand of new consumers and the additional demand of existing consumers shall normally be borne by the distribution licensee and this expenditure shall be recovered from the consumers through tariff as approved by the Commission.”

From the above definition, it is evident that the expenditure for the extension or upgradation of both of the distribution system to be borne by licensee *up to and including the distributing main* only. The appellant has misinterpreted this Regulation for his benefit and hence the complaint is not legally sustainable.

The definition of *Distributing Mains* as per the Regulation 2 (35) is depicted below:

2 (35) “distributing mains” means the portion of any main with which a service line is, or is intended to be, immediately connected;

The consumer had applied for 3-phase connection. By definition, the nearest point of the existing 3-phase service line owned by the licensee refers to *distributing main*. In the instant case, the existing 3-phase service line or distributing main is 128 m away from the proposed premises of the consumer and the single phase line is 15 m away from the premises.

Accordingly, the Assistant Engineer, Electrical Section, Peroorkada prepared the estimate amounting to Rs. 27,240/- based on the cost data approved by the Hon'ble Regulatory Commission and served the same as per the prevailing rules and regulations. Thus, the act of the Assistant Engineer, Electrical Section, Peroorkada in the instant case seems to be in order. Moreover, it may kindly be noted that the Assistant Engineer only tried to comply with the Regulations 32 and 35 of the Supply Code, 2014 in its true spirit. From the above, it is evident that the allegations of the Appellant is baseless and are against facts.

In the above circumstances, it is humbly prayed that the Hon'ble State Electricity Ombudsman may kindly dismiss the case with costs, as it is purposefully framed to mislead the Hon'ble Consumer Grievance and Redressal Forum and the Hon'ble State Electricity Ombudsman.

Analysis and findings

A hearing of the case was conducted in the Court Hall of CGRF, Kottarakkara, on 25-08-2017. Sri R. Venugopal, was present for the appellant's side and Sri. V. Anil Kumar, Assistant Executive Engineer, Electrical Sub Division, KSEBL, Vellayambalam represented the respondent's side. Both sides have presented their arguments on the lines as stated 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 appellant had applied for a three phase electric connection in his house for which 128 metres of single phase line is to be converted to three phase line. A detailed estimate prepared by the Assistant Engineer comprises an amount of Rs. 4,200/- towards the cost of weather proof portion and an amount of Rs. 23,040/- towards upgrading 128 metres single phase line to three phase line. The appellant has argued that collection of Rs. 23,040/- towards the expenses to upgrade single phase distributing main to three phase distributing main is unauthorized and illegal as it is against the provisions under regulations 35 and 36 of Supply Code 2014. But the respondent's version is that the conversion of 128 single phase to three phase line is exclusively for effecting service connection to the appellant. Both the parties relied upon the regulations 35 to 37 of the Supply Code 2014 which read as follows:

35. Expenditure for extension or upgradation or both of the distribution system to be borne by the licensee.- The expenditure for extension or upgradation or both of the distribution system up to and including the distributing main, for meeting the demand of new consumers and the additional demand of existing consumers shall normally be borne by the distribution licensee and this expenditure shall be recovered from the consumers through tariff as approved by the Commission.

36. *Expenditure for extension or upgradation or both of the distribution system to be borne by the consumer.-*

The expenditure for extension or upgradation or both of the distribution system undertaken exclusively for giving new service connection to any person or a collective body of persons or a developer or a builder, or for enhancing the load demand of a consumer or a collective body of consumers or a developer or a builder, shall be borne by the respective applicant or consumer or collective body of consumers or developer or builder, as the case may be, in the following cases:-

- i. for meeting the demand of an applicant with a contract demand above one megawatt (MW);*
- ii. for meeting the additional demand of existing consumers, if the aggregate*
- iii. demand including the additional demand applied for, is above one megawatt (MW);*
- iv. for meeting the demand of the domestic or commercial or industrial complex or colony constructed by a developer or a builder with a demand above one megawatt (MW);*
- v. for meeting the demand of a high rise building irrespective of its demand;*
- vi. for meeting the demand of power intensive unit irrespective of its demand; and*
- vii. for meeting the demand of a consumer requesting for dedicated feeder or*
- viii. protected load status irrespective of its demand:*

Provided that, if due to technical reasons, the extension or upgradation or both to be undertaken by the licensee as per this regulation is more than the requirement of such consumer, the expenditure for such extension or upgradation or both to be realised from the consumer shall be limited to the proportionate expenditure.

37. *Expenditure for service line, plant etc., for providing supply.- (1) The consumer shall bear the expenditure for the service line or of the plant or of both, provided exclusively for him by the licensee.*

(2) The expenditure for line and plant mentioned in sub regulation (1) above shall be determined as per the cost data approved by the Commission.

According to the respondent, the applicant shall bear the expenditure incurred for providing the supply from the distributing main any electric line required for the purpose of giving the supply on the rate approved by the Commission as per Regulation 32 and 37 of supply Code 2014. In this case, the service line was upgraded on the specific request of the appellant for the exclusive use of the consumer. In an order dated 03-05-2016, the Hon'ble Kerala State Electricity Regulatory Commission has delivered that expenditure reasonably incurred by the licensee for conversion of a single

phase low tension service line to a three phase low tension service line, on the specific request of the consumer, can be recovered from the consumer. Hence I feel that since the work is already completed and energized, the respondent shall prepare an evaluation statement of the work based on actual quantities of the expenditure reasonably incurred and excess remittances if any shall be refunded by the respondent by adjustment in the monthly current charges/ direct refund within a period of one month.

Decision

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

The respondent shall evaluate the works based on the actual quantities of the expenditure reasonably incurred and excess remittances if any, shall be refunded by adjustment in the monthly current charges/ direct refund within a period of one month.

The order dated 06-03-2017 issued by the CGRF, Kottarakkara, in Petition No. 295/2016 is modified to this extent.

Having concluded and decided as above, it is ordered accordingly. No order on costs.

ELECTRICITY OMBUDSMAN

P/060/2017/ _____ /Dated: _____

Delivered to:

1. Smt. Archana V.S., Prnavam, TC 24/1205-1, Parambakonam, Nagarkavu Road, Kawadiar P.O., Thiruvananthapuram
2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Ltd, Vellayambalam, Thiruvananthapuram

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.