

THE STATE ELECTRICITY OMBUDSMAN
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APPEAL PETITION No. P/101/2017
(Present: A.S. Dasappan)
Dated: 27th November 2017

Appellant : Dr. Rosamma Joseph
Medical Trust Hospital,
Nedumkandam, Idukki.

Respondent : The Assistant Executive Engineer,
Electrical Sub Division,
KSE Board Ltd., Kattappana,
Idukki.

ORDER

Background of the case:

The appellant is a consumer having three numbers of LT service connections with consumer numbers 30656, 30517 and 593 availed for the use of Medical Trust Hospital, Nedumkandam under Electrical Section, Nedumkandam. LT service connection with consumer No. 30656 is used for pumping of sewage and waste water and inpatient laundry purpose and consumer number 30517 is used exclusively for pumping water to the above hospital. On 11-04-2017, the APTS team inspected the premises and detected that there was incorrect application of the tariff in both the electric connections and the billing of LT service connection is under LT IV instead of LT VI F. Based on the above finding, provisional assessment bills dated 22-05-2017 for Rs. 99,789/- and Rs. 79,440/- were issued to the appellant.

Being aggrieved against the above short assessment, the appellant approached the Assistant Engineer, Electrical Section, Nedumkandam with a complaint. Since the Assistant Engineer confirmed the provisional bills after

hearing, the appellant filed a petition before the CGRF, Ernakulam, which was disposed of with the following orders.

"1. The short assessment bill for Rs. 79440.00 issued to consumer no. 30517 shall be limited to 2 years and the revised bill shall be issued.

2. The short assessment bill for Rs. 99789/- is in order".

Still aggrieved by the above decision, the appellant has filed the Appeal Petition before this Authority.

Arguments of the appellant:

The arguments of the appellant are based on the brief facts and circumstances which are narrated above. Further, the appellant has adduced the following averments.

During the inspection at hospital premises on 11-04-2017 by the KSEBL officials charged short assessment bills for Rs. 79,440/- to consumer No. 30517 for a period of 29 months and Rs. 99,789/- to consumer no. 30656 for a period of 21 months according to Regulation 152 of Supply Code. All these connections were effected after clear verifications by KSEBL officials. The appellant have not made any malpractices or anomalies towards KSEB. The appellant has requested to reduce the bill amount as provided under Regulation 152(3) of Supply Code, 2014.

Argument of the respondent:

The tariff of consumer number 30656 is LT IV with connected load of 32770 Watts and the date of connection is 24-12-2014. The registered purpose of service connection was stated as pumping of sewage water. Another electricity connection with consumer number 30517 having connected load 10571 watts was effected on 28-11-2014. The purpose of this electric connection was stated as water connection. Both the connections are in the same compound of the hospital and used for the hospital purpose only.

During the inspection at the premises on 11-04-2017, it was found that the service connection No. 30656 is used for pumping of sewage water and inpatient laundry purpose. Since the connection is used for the hospital purpose only, the applicable tariff is LT VI F instead of LT IV. Here there is incorrect application of tariff and subsequently a short assessment bill dated 22-05-2017 for Rs. 99,789/- was issued to the appellant. The short assessment bill was issued from the date of TOD metering i.e., from 8/2015 to 04/2017.

Since the consumer No. 30517 is used for the hospital purpose only, the applicable tariff is LT VI F. Hence there is incorrect application of tariff and subsequently a short assessment bill dated 22-05-2017 for Rs. 79,440/- was issued to the appellant.

The short assessment bills were issued to the appellant as per Regulation 152(2) of the Electricity Supply Code 2014 with intimation to the appellant to change the tariff as per Regulation 97 (2) of the Code.

Analysis and findings:

A hearing of the case was conducted in my chamber at Edappally on 14-11-2017. Sri. Dino Mathew, Manager, Medical Trust Hospital, Nedumkandam represented the appellant and Sri. Salim Kumar K.S., Assistant Executive Engineer, Electrical Sub Division, Kattappana 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.

On going through the records it can be seen that LT service connections with consumer nos. 30517 and 30656 were effected in the hospital premises of the appellant on 28-11-2014 and 24-12-2014 respectively. In the case of service connections with the above consumer nos. availed on for pumping water and pumping sewage water to the hospital premises were effected under LT IV tariff by mistake. According to the respondent the tariff applicable to private hospitals, private clinic and private clinical laboratories are categorized under LT VI - General (F) with effect from 14-08-2014. But due to oversight, the appellant was charged under LT IV. Hence the short assessment was issued to the appellant relying on the revised 'Schedule of Tariff and Terms and Conditions for Retail Supply of Electricity by KSEB Limited and all other licensees' with effect from 14-08-2014.

The appellant has averred that the connections were provided by the respondents on application and tariff fixed by them after verification. The purpose of the connections was clearly mentioned in the application that water treatment plant and pumping water. Another contention of the appellant is that the appellant have not made any malpractices or anomalies towards KSEB.

The point to be decided in this case is as to whether the appellant is eligible/or LT IV A tariff or not and the short assessment bills issued were in order.

The purpose or the activity for which the electrical energy being used is considered primarily for determining the applicable tariff of the consumer. As per Section 61 of the Electricity Act, 2003, the Appropriate Commission shall subject to the provisions of the Act specify the terms and conditions for the determination of tariff by safeguarding of consumers' interest and at the same time recovery of the cost of electricity in a reasonable manner. In order to cater the genuine need of different types of consumers and also to rectify the anomalies in the prevailing tariff, the Commission introduced new tariff depending upon the purpose for which supply is used. Accordingly Commission introduced LT VI General (F) tariff for private hospitals, private clinics, private clinical laboratories, private X-ray units, private mortuaries, private blood banks, private scanning centres etc.

As per Clause 9 of General Conditions to the Schedule of Tariff and Terms and Conditions, "Power supply for common facilities in the high rise buildings for the occupation by consumers in LT VI or in LT VII categories shall be charged at the respective tariff for such categories. When there is a combination of occupation of different categories of consumers, common facilities shall be charged at the highest of LT VI or LT VII tariff applicable to such categories".

In the general condition of the tariff order, it is specifically mentioned that Power supply for common facilities in the high rise buildings for the occupation by consumers in LT VI or in LT VII categories shall be charged at the respective tariff for such categories. The said general conditions relate under the caption 'Part A- Low Tension (LT) Tariff. Hence Clause 9 of General Condition is applicable for LT consumers. Low Tension IV category mainly relates to industrial consumers and the appellant's service connection does not come under industrial activities. In this case, the supply is exclusively used for pumping water to the appellant's hospital and hence cannot be included in the LT IV category.

As per tariff order dated 14-08-2014 in OP No. 9 of 2014, Hon'ble Commission has introduced LT VI General (F) tariff for private hospitals, private clinics, private clinical laboratories, private X-ray units, private mortuaries, private blood banks, private scanning centres etc. So, in the above circumstances the appellant is not eligible for LT IV tariff or LT VI A tariff.

Decision

Considering the above facts and legal provisions pertaining to the issue this Authority is of the considered view that the appellant's premises is not eligible for LT IV tariff. As this a case of incorrect application of tariff, the

amount of electricity short collected shall be realized from the appellant by limiting a maximum period of 24 months, without interest. The respondent shall allow sufficient instalments without interest, if the appellant applies for the same.

The order of CGRF, Ernakulam in OP No. 25/2017-18 dated 26-08-2017 is upheld. Having concluded and decided as above, it is ordered accordingly. No order as to costs.

ELECTRICITY OMBUDSMAN

P/101/2017/ _____ /Dated: _____

Delivered to:

1. Dr. Rosamma Joseph, Medical Trust Hospital, Nedumkandam, Idukki.
2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Ltd., Kattappana, Idukki.

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.