

THE STATE ELECTRICITY OMBUDSMAN
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APPEAL PETITION No. P/095/2017
(Present: A.S. Dasappan)
Dated: 22nd December 2017

Appellant : Smt.Asiyabeevi.
Thattaparambil Veedu,
Kannivayal P.O.,
Kasaragod.

Respondent : The Assistant Executive Engineer,
Electrical Sub Division,
KSE Board Ltd., Neeleswaram,
Kasaragod.

ORDER

Background of the case:

The appellant is a domestic consumer with consumer No. 394 having a connected load of 100 watts under Electrical Section, Nallompuzha. The appellant was received a spot bill amounting to Rs.3477/- under LT VI F tariff on 16/09/2015 and next two spot bills were also received under LT VI F tariff. Aggrieved by this, the appellant filed a complaint before the CGRF, Kozhikode in OP No. 36/2016-17 which was allowed in part and the spot bill issued on 16-09-2015 is retained under LT VI F tariff. Still not satisfied with the decision, the appellant filed appeal petition before this Authority.

Arguments of the appellant:

The gist of the complaint of the appellant is as follows:

The tariff assigned to the appellant was changed by the respondent, without her request and without issuing proper notice. The licensee has issued bimonthly electricity bills under LTVIF tariff vide bills dated 16-09-2015, 16-11-2015 and 14-01-2016 for Rs.3477/-, Rs.478/- and Rs. 854/- respectively. The appellant's prayer to the CGRF was to retain her under LT 1A tariff and to refund the excess amount collected under LT VIF tariff during the period in

question. But the CGRF has ordered to retain her under LT 1 A tariff, , but to remit the bill dated 16-09-2015 in LT VI F tariff and not allowed her request for refund. The appellant submits that no notice for change of tariff was affixed in the premises, as stated by the respondent. There were discrepancies in the bill dates, like date of previous reading etc. It is also contended by the appellant that temporary extension for construction work was granted by the respondent four times from March 2015 to June 2015. The appellant has requested to refund the excess amount remitted by her under LT VI F tariff.

Arguments of the Respondent:

The respondent has submitted the following details in their statement of facts. The meter reader noted an unauthorized extension of electricity from the house of the appellant to the nearby house under construction during the meter reading on 16-05-2015. On the next reading conducted on 16-07-2015, it was found that the extension was not removed and hence a notice was pasted near the meter board as there was nobody present in the premises. The bimonthly bills under LT VI F tariff were issued to the appellant from 11/09/2015 to 14/01/2016.

The appellant has removed the unauthorized extension and obtained new connection for the house constructed. Hence the bills after 14-01-2016 were being issued to appellant under domestic tariff. Since the appellant had unauthorisedly extended the connection, action was initiated against her under Section 126 of the Electricity Act 2003. The respondent also submits that the Section Squad had detected a theft of electricity from the electric line directly by this consumer on 02-03-2009 and the consumer remitted the penalty amount.

Analysis and findings:

The hearing of the case was conducted on 12-12-2017 in the Office of the State Electricity Ombudsman, Edappally, Kochi. The appellant's side was represented by Sri. Shajahan and Smt. Souda T. and the respondent's side by Sri Edward P. Boniface, Assistant Executive Engineer, Electrical Sub Division, Nileshtar and they have argued the case, mainly on the lines as stated above. On examining the petition filed by the appellant, the statement of facts of the respondent, perusing the documents and considering all the facts and circumstances of the case, this Authority comes to the following conclusions and findings, leading to the decisions thereof.

The respondent has adduced the allegation of unauthorized extension of electricity connection from the appellant's premises to a nearby house under construction. This unauthorized use of electricity was detected by the meter reader while taking meter reading on 16-05-2015. This extension was not removed and confirmed again during the meter reading on 16-07-2015.

Accordingly the respondent issued a notice by pasting it near the meter board. The respondent submits that action was initiated against the appellant under Section 126 of Electricity Act 2003.

The appellant has denied the allegation of unauthorized extension and stated that she had obtained temporary extension from the respondent during the period from March 2015 to June 2015.

On going through the records and facts of the case, serious lapses and omissions were seen occurred on the side of the respondent. On detecting any unauthorized use of electricity, the respondent is bound to take action under Section 126 of Electricity act, 2003. A responsible authorized assessing officer of the licensee has not inspected the premises and not prepared a site mahazar, as provided in the Act. On detection of unauthorized extension of supply of electricity, the licensee shall issue notice to the consumer directing him to disconnect such unauthorized extension within twenty four hours and intimating that, the supply to the premises of the consumer will be disconnected if he does not comply with such direction. A provisional assessment under Section 126 shall be done in accordance with the procedure specified in the sub regulations under Regulation 155 of the Supply Code, 2014. It is found that the respondent has simply reclassified the tariff instead of initiating action under Section 126, if the unauthorized use detected.

Further the notice was not found served as per the procedure specified in Regulation 175 of the Supply Code 2014, which is produced below.

“175. Service of notice.- (1) Any order or notice issued on the consumer by the licensee, including the notice under Section 56 of the Act shall be deemed to be duly served if it is sent by registered post at the correct postal address of the addressee or delivered by hand, with signed acknowledgement to the person residing at the address notified to the licensee by the consumer:

Provided that in the case of an individual, service of notice to the spouse of the consumer or his authorised representative, and in the case of a firm, company or corporation, service of notice on the Managing Director, Director or Principal Officer or an authorised person of such an institution, shall be taken as sufficient service for the purpose of this Code.

(2) If a consumer refuses to receive or avoids receiving the notice, the service may be effected by any of the following methods which shall be deemed as sufficient for service of notice:-

(a) affixing the notice at a conspicuous place on the premises of the consumer in the presence of two witnesses and photographing the notice; or

(b) publication of the notice in daily newspaper commonly read in the concerned locality to be kept on record by the licensee.

(3) in addition to the methods described above, the licensee may resort to any of the following means also to serve the notice:-

- (i) through special messenger and obtaining signed acknowledgement; or
- (ii) by courier with proof of delivery; or
- (iii) by fax; or
- (iv) by e-mail:

Provided that in the case of notice sent by fax or e-mail, it shall be followed by a formal authenticated communication.'

The reclassification of consumer category was not done as stipulated in regulation 97 of the Supply Code 2014 also. The regulation reads as;

“97. Suo motu reclassification of consumer category by the licensee.- (1) If it is found that a consumer has been wrongly classified in a particular category or the purpose of supply as mentioned in the agreement has changed or the consumption of power has exceeded the limit of that category as per the tariff order of the Commission or the category has changed consequent to a revision of tariff order, the licensee may suo motu reclassify the consumer under appropriate category.

(2) The consumer shall be informed of the proposed reclassification through a notice with a notice period of thirty days to file objections, if any.

(3) The licensee after due consideration of the reply of the consumer, if any, may reclassify the consumer appropriately.

(4) Arrear or excess charges shall be determined based on the actual period of wrong classification and the account of the consumer shall be suitably adjusted.

(5) If the actual period of wrong classification cannot be ascertained reasonably, the

period shall be limited to a period of twelve months or a period from the date of last inspection of the installation of the consumer by the licensee whichever is shorter:

Provided that in the case of reclassification consequent to change of the purpose of supply by the consumer without due authorisation, the licensee may examine each case and initiate proceedings under Section 126 of the Act if found necessary.”

On the basis of the above discussions, I am of the opinion that the alleged extension by the appellant is not proved conclusively. A detection of unauthorized extension by a meter reader which is not confirmed by an

authorized Assessing Officer by an inspection and site mahazar prepared, cannot be admitted.

Decision:

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

1. The orders of CGRF, Kozhikode in OP No. 36/2016-17 dated 04-03-2017 is set aside.
2. The appellant is retained under the LT 1 A tariff during the period in dispute and the respondent shall refund the excess amount collected under VI F tariff to the appellant.

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

Electricity Ombudsman

Ref No: P/ 095/ 2017 dated _____

Forwarded to:

1. Smt. Asiyabeevi, Thattaparambil Veedu, Kannivayal P.O., Kasaragod.
2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Ltd., Neeleswaram, Kasaragod.

Copy to

1. The Secretary, Kerala State Electricity Regulatory Commission, KPFC Bhavanam, Vellayambalam, Thiruvananthapuram-10.
2. The Secretary, KSEB, Vydhyuthibhavanam, Pattom, Thiruvananthapuram-4
3. The Chairperson, Consumer Grievance Redressal Forum, Northern Region, Vydyuthi Bhavan, Gandhi Road, Kozhikode.