

THE STATE ELECTRICITY OMBUDSMAN
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APPEAL PETITION No. P/113/2017
(Present: A.S. Dasappan)
Dated: February 5th 2018

Appellant : Sri. Francis Immanuel
Padinjarekudyil, Pandappilly P.O.,
Muvattupuzha, Ernakulam

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

ORDER

Background of the case:

The appellant is an electricity consumer with No. 19997 under Electrical Section No.2, Kothamangalam, Ernakulam with a connected load of 2413 watts under LT 1 A tariff. While so, he was issued with a short assessment bill amounting to Rs. 5393/- based on an allegedly faulty meter reading. The appellant filed objections before the Assistant Engineer and thereafter approached the Hon. Permanent Lok Adalath, Ernakulam with request to set aside the bill vide OP No.34/2017. The Hon'ble Permanent Lok Adalath passed an award on 28.04.2017 in which the short assessment bill for Rs. 5393/- was set aside and the respondent was directed to issue a fresh bill for the meter faulty period from 28.06.2012 to 11.10.2013 in accordance with 125(1) and 125(2) of the Act. A fresh bill for Rs.3580/-, for a period of two billing cycles, in accordance with Section 125(1) and 125(2) of Electricity Act was issued to the appellant on 20.07.2017. The appellant had not remitted the bill but submitted another complaint before the Consumer Grievance Redressal Forum who dismissed the case on 21.10.2017 as the case was solved by the Hon'ble Permanent Lok Adalath and complied by the respondent. Still not satisfied, the appellant has submitted this appeal petition.

Arguments of the appellant:

The appellant is the owner of the building to where the single phase service connection was provided with consumer No.19997 in the name of Sri. Binny George under LTIA tariff with connected load 2413 watts. The building was continuously unoccupied from 2008 to 2012. During this period the consumption was zero and Board issued bill for Rs 85/- being the minimum charge. The building was occupied from May 2013 and vacated by June 2015. In October 2013 the meter became damaged by lightening and which was replaced. Executive Engineer, Muvattupuzha with other officers visited the site and assessed the damages occurred in lightening but this fact was not reported anywhere.

The appellant received the arrear bill for Rs 5373/- in November 2015 as per audit report. The appellant filed petition before Lok Adalath and the forum directed the Board to apply 125(1) in calculating the short assessment bill. But the Board has not acted accordingly.

Ombudsman may verify the current bills, consumption chart, bill remittance chart of the connection and check whether meter was faulty as stated by KSEB. He wants to know the month in which the meter became faulty. The said meter never showed zero display and the yearly consumption was 3 to 4 units. The gate was locked in the period of unoccupancy and hence the bills were being remitted by neighbour.

Arguments of the respondent:

Consumer No. 1156018019997 is the single phase service connection registered in the name of Sri. Binny George under LT IA tariff with connected load of 2413 watts under Electrical Section No. 2, Kothamangalam. The present owner of the building is Sri. Francis Immanuel, Padinjarekudyil (H), Pandappilly P O, Muvattupuzha.

The energy meter installed in the premises of the consumer was faulty from 28.6.2012 and energy bills were issued on an average bi-monthly consumption of 150 units in the faulty period. On 11.10.2013 a new meter was installed and the subsequent readings revealed that the bimonthly consumption of the consumer was higher than the previous average of 150 units, on which the bills were issued in the faulty period. The bimonthly consumption details are furnished below.

Sl. No	Reading date	Consumption (in units)
1	5-12-2013	426
2	5-2-2014	597
3	4-4-2014	446
4	5-6-2014	297
5	4-8-2014	413
6	7-10-2014	129
7	5-12-2014	196
8	28-2-2015	695
9	27-4-2015	271
10	27-6-2015	271
11	24-8-2015	18

As per Regulation 134 of Supply Code 2014, if the licensee establishes either by review or otherwise, that it was undercharged the consumer, the licensee may recover the amount so undercharged from the consumer by issuing a bill and in such cases at least thirty days shall be given to the consumer for making payment of the bill. Hence a short assessment bill for Rs. 5393/- was issued to the consumer on 30.11.2015 to make good the loss sustained to the Board for the fault; period of three billing cycles 6/2013, 8/2013 and 10/2013. The consumer filed a complaint against the bill in the office of the Assistant Engineer on 17.12.2015. After that the appellant filed an appeal petition before the Executive Engineer, Electrical Division Muvattupuzha on 02.02.2016 and requested to cancel the bill. After collecting evidences and verifying all aspects of the case, the Executive Engineer confirmed the initial bill for Rs.5393/ and dismissed the petition on 29.04.2016 with a direction to remit the amount within 15 days from the date of receipt of the communication.

The appellant filed OP No. 34/2017 before the Hon'ble Permanent Lok Adalath, Ernakulam against the bill and an award was passed by the Hon'ble Permanent Lok Adalath on 28.04.2017. In the award the short assessment bill for Rs. 5393/- was set aside. The respondent was directed to issue a fresh bill for the meter faulty period from 28.06.2012 to 11.10.2013 in accordance with 125(1) and 125(2) of the Act.

In compliance of the order of Hon'ble Permanent Lok Adalath, a fresh bill for Rs.3580/-, for a period of two billing cycles, in accordance with Section 125(1) and 125(2) of Electricity Act was issued to the appellant on 20.07.2017, with a direction to remit the amount within 21 days from the date of receipt of the communication.

On receipt of the fresh bill the appellant submitted a complaint before the Executive Engineer, Electrical Division, Muvattupuzha on 26.07.2017. After

collecting evidences and verifying all aspects, the Executive Engineer confirmed the revised bill for Rs. 3580/- and dismissed the complaint on 08.08.2017 with a direction to remit the amount within the last date for payment, mentioned in the bill.

The appellant had not remitted the bill but submitted another complaint before the Hon'ble Consumer Grievance Redressal Forum on 10.08.2017. The Hon'ble Forum viewed that once the case was solved by the Hon'ble Permanent Lok Adalath and complied by the respondent. Hence the Hon'ble CGRF dismissed the case on 21.10.2017.

The Assistant Engineer has issued the bill strictly in accordance with the order of Hon'ble Permanent Lok Adalath, as per Section 125 (1) and 125 (2) of the Electricity Act. The petition is filed without any bonafide and is filed only an experimental basis with an intention for escaping and delaying the payment to the Kerala State Electricity Board Limited. None of the relief claimed is allowable. This respondent has acted strictly in accordance with law.

Analysis and Findings: -

A hearing of the Case was conducted in my chamber at Edappally, Ernakulam on 26-12-2017. The appellant's side was represented by Sri. Francis Immanuel and the opposite side by Sri. Gopi N.K., the Asst. Exe. Engineer, Electrical Sub division, Kothamangalam. They have argued the Case mainly on the lines stated above. On examining the Appeal Petition, 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 decision thereof.

The case is about the short assessment bill amounting to Rs. 5393/- based on an allegedly faulty meter reading in use at the consumer's premises. The appellant approached the Permanent Lok Adalath and obtained an award on the dispute. Still aggrieved, the appellant had submitted a complaint before the Consumer Grievance Redressal Forum who dismissed the case on 21.10.2017 as the case was solved by the Hon'ble Permanent Lok Adalath. Meanwhile, the consumer also filed an Appeal Petition before this Authority aggrieved against the CGRF order.

At this juncture it is to be noted that, Clause 22 (d) of the Kerala State Electricity Regulatory Commission (CGRF and Electricity Ombudsman) Regulations, 2005, provides that " Maintainability of the Complaint- (1) no representation to the Ombudsman shall lie in case where a representation for the same grievance by the complainant is pending in any proceedings before any Court, tribunal or arbitrator or any other authority or a decree or award or a final order has already been passed by any such Court, tribunal, arbitrator or authority". Since a decision was seen taken by the Hon'ble Permanent Lok

Adalath for the same cause of action and related grievances, I feel that the Appeal Petition is not maintainable before this Forum and hence the same stands rejected.

Decision

The Appeal petition filed by Sri Francis Immanuel, before this Authority is not maintainable for the reason stated above and therefore the said petition stands dismissed and is ordered accordingly. The order of CGRF, Ernakulam in OP No. 36/2017-18/2017 dated 21-10-2017 is upheld. No order on costs.

ELECTRICITY OMBUDSMAN

P/113/2017/ _____ /Dated: _____

Delivered to:

1. Sri. Francis Immanuel, Padinjarekudyil, Pandappilly P.O., Muvattupuzha, Ernakulam
2. The Assistant Executive Engineer, Electrical Sub Division, KSEBL, Kothamangalam, Ernakulam

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, Central Region, 220 KV Substation Compound, HMT Colony P.O., Kalamassery 683 503