

THE STATE ELECTRICITY OMBUDSMAN  
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APPEAL PETITION No. P/040/2018  
(Present: A.S. Dasappan)  
Dated: 7<sup>th</sup> September 2018

Appellant : Sri. Ramachandran M.  
Adithya, Nambrathkara,  
Naduvathur (PO), Koyilandy,  
Kozhikode

Respondent : The Assistant Executive Engineer,  
Electrical Sub Division,  
KSE Board Ltd., Nilambur,  
Malappuram

### **ORDER**

#### **Background of the case:**

The appellant, a former employee of the Kerala State Wood Industries, Nilambur was then staying in the company's quarter with consumer number 2996 and he was remitting the electricity charges as the occupier. The appellant was occupying the quarter from 1985 and he was included in the non-paying group till 01/97. The connection was changed to payment category from 02/1997 onwards since the connected load of the appellant had exceeded 500 watts. The company was under lock-out during the period from June 1993 to June 2002 and there was no consumption of electricity at that time since no one residing in the quarter. The service connection was disconnected on 17-09-2003 as the appellant defaulted payment of electricity charges from 02/1997. The appellant paid an amount of Rs.4875/- on 31-03-2005 being the arrears of the current charge and surcharge for the period from 02/1997 to 02/2005. Against this, the appellant approached various authorities and at last filed a petition before the Electricity Ombudsman. The Ombudsman, as per order dated 05-06-2007, directed the respondent to refund the entire amount collected from the appellant after deducting the charges due for the period from 02/97 to 08/97 only. Due to the non compliance of the orders of the Ombudsman, the appellant approached the KSERC on 19-03-2010 and as per

the direction of the Commission; the respondent refunded Rs. 4509/- by cheque dated 08/12/2010. Still not satisfied with amount received and with a request to award compensation, the appellant filed another petition before the CGRF, Kozhikode vide OP No.170/2017-18 on 23-12-2017. The decisions of the CGRF in the order dated 20-03-2018 is as follows: “1) The request of the petitioner to refund Rs.276/ is disallowed. 2) The respondent shall grant interest at prevailing bank rate for Rs.4509/- from 01-04-2005 to 07-12-2010 to the petitioner within 30 days of receipt of the order. 3) The petitioner can approach the licensee for compensation for the losses in conducting this case for the past 16 years.” The appellant again approached CGRF with a review petition which was dismissed in Review Petition No. 01/2018-19 in OP No.170/2017- 18 on 22-05-2018. Aggrieved by these orders, the appellant has filed the Appeal Petition before this Authority.

### **Arguments of the appellant:**

The electric connection with Consumer No. 2996 provided for Kerala State Wood Industries Quarters under Nilambur Electrical Division was included in the category of Non Paying Group (NPG) up to 1/1997. As the company was under ‘Lockout’ from 1993 to 2002 (9 years) nobody was occupied in the building or used electricity during the period of ‘Lockout’. The ‘Lockout’ was withdrawn in 2002 and found there was no electricity in the premises and the appellant was expelled from ‘NPG’ from 02/1997 onwards.

Though petitions were filed before the offices of KSEBL against the billing from 02/1997, which was against the provisions of Indian Electricity Act, no action was taken till the retirement of the appellant in 2004. KSEBL also realised Rs. 4,875/- from the appellant. The company was also wound up in 2009.

The appeal petition is filed against the order of CGRF in a petition seeking implementation of the order of Ombudsman filed by the appellant as advised by the Regulatory Commission.

If timely action had been taken by the licensee in 02/1997 on the complaints filed by the appellant, the present petition could have been avoided. As such KSEBL is responsible for the losses occurred to the appellant since 2002.

In the arrear bill issued on 24-03-2006, the current charge was Rs. 15/- which was also mentioned in the order dated 20-03-2018 of CGRF in OP No. 170/17-18/920). Hence the appellant requests for the refund of excess amount collected from him with interest (as in the case of surcharge of 12%) after deducting the real arrear amount Rs. 92.25.

**Arguments of the respondent:**

The appellant was an employee of Kerala State Wood Industries Ltd., Nilambur and an occupant of the quarters provided by the company from 1985. As the appellant was under Non Payment Group up to 01/1997 he was exempted from remitting electricity bills till the above period. But the above connection was changed to payment category from 2/1997 since the connected load exceeded 500 Watts. The connection to the quarters was disconnected on 17.09.2003 owing to the non payment of energy charges from 2/1997. The Appellant paid the arrear amount of Rs. 4,875/- for the period from 02/1997 to 02/2005 on 31.03.2005. The licensee refunded an amount of Rs. 4,509/- to the appellant after deducting the minimum charges of Rs. 366/- pertaining to the period 02/1997 to 08/1997 as the CGRF ordered to refund the interest of the amount at bank rate for the remitted Rs. 4,509/- from 1-4-2005 to 7-12-2010. The respondent have complied and refunded the amount Rs. 1,603/- vide Cheque No. 662168 dated 15.5.2018. No discrimination or purposeful lapse from the part of Kerala State Electricity Board Limited and all the claimed time delays shown are in one way or other the appellant has questioned the matter in some or other Forum and now he is claiming this has a lapse while KSEB Limited could not finalize the matter in its own decision.

The punishment ordered by the Honourable Kerala State Electricity Regulatory Commission was effected towards the concerned people as per the Order No. 1007/CEX/2010/1-12-2010. Re opening of such matter is only because the complainant is a habitual litigation makeup.

**Analysis and findings:**

The hearing of the case was conducted on 27-07-2018, in the Office of the State Electricity Ombudsman, Edappally, Kochi 24. The appellants' side was represented by Sri. M. Ramachandran, and the respondent by Sri. Suresh Kumar D Padaveth, Assistant Executive Engineer, Electrical Sub Division, Nilambur and they have argued the case, mainly on the lines stated above. On examining the appeal petition and argument note filed by the appellant, the statement of facts and argument note of the respondent, perusing the documents attached and considering all the facts and circumstances of the case, this Authority comes to the following findings leading to the decisions thereof.

The challenge in this appeal petition is the order passed by the CGRF, Kozhikode on a petition filed by the appellant in OP No. 170/2017-18 dated 20-03-2018. That petition was filed for refund of Rs. 276/-, interest for prevailing bank rate for Rs.4509/- from 01-04-2005 to 07-12-2010 and compensation for

the losses. The Forum has granted interest at the bank rate and disallowed other two requests. The appellant has now approached this Authority with the requests to refund Rs.276/- with interest, to grant interest twice the bank rate for Rs.4509/- and to grant compensation for the losses.

The pertinent facts of the case are as follows:

The Electricity Ombudsman vide his order date 05-06-2007 on appeal No. 11 of 2007, directed the Assistant Engineer, Electrical Section, Nilambur to refund all the amounts collected from the appellant after deducting the charges due for the period from 02/97 to 08/97 only, on the ground that the connection to the premises should have been disconnected in 02/97 and service dismantled after six months in 08/97 as per rules in force. The respondent had collected an amount of Rs.4875/- being the arrears for the period from 02/97 to 02/2005 on 31-03-2005. In compliance with the orders of Ombudsman and KSERC, the respondent refunded an amount of Rs.4509/- to the appellant after deducting the minimum charges of Rs.366/- pertaining to the period from 02/97 to 08/97 by cheque dated 08/12/2010. It is understood that the monthly minimum of the domestic consumer was Rs.18/- and the surcharge @ 2% per month prevailed up to 11/2008. The respondent deducted an amount of Rs. 366/- pertaining 7 months minimum charges and surcharge @ 2% for the period from 02/97 to 02/2005. One of the main challenges of the appellant is that he is bound to pay minimum charges for six months and surcharge only for that period. In this regard the finding of the Ombudsman in order dated 05-06-2007 in P/2007 is reproduced below. "Thus the connection to the premises of the appellant should have been disconnected in 2/97 and service dismantled in 8/97 as per the rules in force. Consumer is not responsible for Board not doing the same. Respondent could not produce any document as proof to show that consumer wanted to postpone or withhold dismantling and also could not produce any rule to allow deferring of dismantling under special circumstances. No arrears can be claimed from the consumer after 8/97 till restoration of supply after settlement of the issue. All amount collected from the consumer should be refunded to the consumer after deducting the charges due for the period from 2/97 to 8/97 only." It is found that there happened serious lapses on the part of the respondent and hence collecting surcharge up to 02/2005 is not justifiable. The respondent shall collect minimum charges for six months and surcharge applicable for that period only.

The consumer is eligible for interest for any excess amount paid by him towards the electricity charges, if it is established as excess sum, upon a complaint raised by the party. The next point is the rate of interest. Regulation 134 (3) of Supply Code, 2014 says: "(3) The licensee may refund such overcharged amount along with interest at bank rate as on the date of remittance of such overcharged amount, by way of adjustment in the three subsequent bills and if the adjustment is not possible in the next three bills,

the licensee shall refund the balance amount in full by cheque". Hence the appellant is eligible for bank rate for the amount of Rs. 4509/- from the date of remittance. The respondent had complied with the orders of CGRF by issuing a cheque for Rs. 1603/- towards the interest for Rs.4509/- from 01-4-2005 to 07-12-2010. In the case of undercharged amounts, the licensee has to recover arrear of charges or any other amount due from the consumer along with interest at the rates applicable for belated payments from the date on which such payments became due. The rate of interest of belated payment is @12% per annum. Applying the same criteria, the appellant is eligible for interest @12% per annum for the overcharged amount.

Hence it is decided that the appellant is eligible to get interest @ 12% per annum for the excess amount paid.

Considering the facts and circumstances of the case, this Authority finds that the issue is squarely covered in favor of the appellant to the extent stated above. This Authority is not competent to award compensation in first instance. It is left open to the appellant to approach the licensee for compensation for the failure to adhere to time schedule for dismantling and removal of electrical line or electrical plant which are not in use.

### **Decisions:**

From the foregoing discussions done above and the findings and conclusions arrived at, this Authority has arrived to the following decisions;

- 1) The respondent shall fix the tariff minimum Rs 18/- per month for 6 months after disconnection on 02/1997. The surcharge shall be limited to 6 months for this period only. So the respondent shall limit the arrears as Rs.116/- only including surcharges for the 6 months.
- 2) The respondent shall refund balance amount of Rs.259/- along with interest @12% per annum for the period from 31-3-2005 to till the date of payment.
- 3) The appellant was paid an amount of Rs. 1603/- on 15-05-2018 towards interest for Rs. 4509/- for the period from 1-4-2005 to 7-12-2010. Since the appellant is eligible for 12% interest for the overcharged amount as per rules, the respondent shall pay the balance amount of interest for the above period for Rs.4509/-.
- 4) It is left open to the appellant to approach the authorities of licensee for compensation, if desires so. In the above circumstances the appeal is disposed of as above. The respondent shall issue cheque to the appellant

within thirty days time on receipt of this order. The order of CGRF in OP No. 170/2017-18 dated 20-03-2018 is modified to this extent. Having concluded and decided as above, it is ordered accordingly. No order as to costs.

**ELECTRICITY OMBUDSMAN**

P/040/2018/ \_\_\_\_\_ /Dated: \_\_\_\_\_

Delivered to:

1. Sri. Ramachandran M. Adithya, Nambrathkara, Naduvathur (PO), Koyilandy, Kozhikode
2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Ltd., Nilambur, Malappuram

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, Gandhi Road, Kozhikode