

THE STATE ELECTRICITY OMBUDSMAN
Charangattu Bhavan, Building No.34/895, Mamangalam-Anchumana Road,
Edappally, Kochi-682 024
www.keralaeo.org Ph: 0484 2346488, Mob: 91 9539913269
Email:ombudsman.electricity@gmail.com

APPEAL PETITION No. P/014/2019
(Present: A.S. Dasappan)
Dated: 29th April 2019

Appellant : Sri. P.M. Pareethu Bava Khan,
General Secretary, Muslim Association
College of Engineering, Venjaramoodu,
Thiruvananthapuram

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

ORDER

Background of the Case:

The appellant is conducting an Engineering college having electric connection under HT II (B) tariff bearing customer Code LCN-11/3926 with registered contract demand of 67 kVA within the jurisdiction of Electrical Section, Venjaramoodu. The inspecting authorities of TMR, Thirumala conducted a field inspection in the appellant's premises on 22-09-2017 and found that the ToD Meter installed in the premises of the appellant is an old version and the display parameters kVARh and kVAh Zone wise readings are not available. The Deputy Chief Engineer, Electrical Circle, Kattakada has directed the appellant to replace the ToD meter with new 3 phase 4 wire DLMS compatible meter of accuracy Class 0.2 S, CTs with CT units of accuracy class 0.2 S and PTs with PT units of accuracy class 0.2, vide letter dated 27-09-2017. The respondent has imposed penalty for an amount of Rs.106138/- as 50% extra over the prevailing rate applicable both demand and energy for two months during which the appellant failed to replace the faulty metering component, and one month thereafter. The appellant has challenged the bill and filed an appeal before Consumer Grievance Redressal Forum Vydhyuthi Bhavanam, Kottarakkara as O.P. No. 124/2018. The CGRF, Kottarakkara, dismissed the petition vide order dated 31-12-2018.

Aggrieved by the order of the CGRF, the appellant has submitted this appeal petition before this Forum.

Arguments of the appellant:

The Assistant Engineer of Electrical Section Venjarammoodu has forwarded to the appellant, a communication issued by the Executive Engineer, TMR Division, Thirumala addressed to the Deputy Chief Engineer and the copy of the aforesaid communication was served upon the appellant on 6/10/2017 and upon perusal of the same, it was known that the Deputy CE was requested to issue appropriate instruction to the appellant to replace the existing TOD meter. According to the Executive Engineer, the TOD meter now installed in the premises is faulty, as the CT-PT unit is not properly functioning.

In order to comply with the same, the appellant invited quotations for the metering equipments, on 15/10/2017. The appellant received quotations from two firms on 24/10/2017 and on 31/10/2017. Immediately upon receipt of the same, the appellant had forwarded the copies of aforesaid quotations to the Executive Engineer, TMR Division, Thirumala, Trivandrum. The quotations were forwarded to him, to ensure that the equipments quoted by the concerned parties were in tune with the specifications and requirements as informed by him.

Thereafter, on 10/11/2017, the Executive Engineer issued a reply to the said communication intimating the appellant that the matter has been communicated to the Deputy CE for further action and the appellant was requested to contact him for further directions in this regard. Accordingly, the appellant sent communication dated 13/11/2017 highlighting all the above aspects and also requested the officer to confirm the suitability of the equipments quoted by the said firms.

There was no response from the respondent for some time, and the appellant was regularly contacting the office of the respondent seeking the status of the communication mentioned above. During the course of such inquiry, the appellant was informed that the CT ratio required is 10/5 instead of 20/5 and found that the specifications of the equipments covered under the quotations already received, are not sufficient. Therefore, the appellant obtained fresh quotations in tune with the above requirement and submitted the same. Thereafter the copy of revised quotation received by them was forwarded to the respondent as per communication dated 22/12/2017. By this time the respondent has started demanding additional charges for non-installation of the meter and hence the appellant also requested the respondent not to take any coercive steps in respect of the same, as the delay, if any, is caused not due to any lapses on the part of the appellant.

The response to the aforesaid communication from the respondent was received by the appellant on 1/01/2018, wherein the appellant was informed that the office of the respondent is not authorized to evaluate quotations invited by private organization. Therefore he has returned all the quotations and other documents. Thereafter, the appellant purchased the TOD meter and other equipments and got it calibrated through TMR and the same were installed on 20/01/2018. Thereafter, the aforesaid aspect was informed to the respondent as per communication dated 24/01/2018 and requested him to adjust the excess amount collected from the appellant for non-installation of the meter, during the period, in the future bills.

The respondent conducted a hearing of the appellant after obtaining reports and without properly considering the grievances highlighted by the appellant, the respondent rejected the said representation by confirming the aforesaid additional demands.

During this period, the appellant was served with three monthly invoices, which contain additional charges for non-installation of the meter. The complaint was submitted before the CGRF in the above circumstances, seeking refund of the said amounts. Even though the CGRF came to a definite finding that, there were lapses on the part of the licensee, the claim for refund was rejected.

Nature of the relief sought:

To set aside the order passed by the CGRF, Southern Region, Kottarakkara, in OP No 124/2018 dated 31.12.2018 which was served upon the appellant on 19.01.2019, and grant the reliefs sought for in the said complaint.

Arguments of the respondent:

The Meter Testing Unit attached to TMR Division, Thirumala inspected the Metering equipments of the appellant and found that PT Secondary B Phase voltage is low and the PT unit is faulty and also noticed the following discrepancies.

1. The TOD Meter installed in the premises of the appellant is an old Version.
2. The display parameters kVARh and kVAh Zone wise readings are not available.

Since the meter was faulty the matter was communicated to the appellant by the Agreement Authority on 27.09.2017, with specification of accuracy class. Being a HT consumer, the appellant elected to purchase the

meter and metering equipments for replacing the faulty meter. As per general condition of the Tariff Order published in the Extra Ordinary Gazette 2017-18 dated 21.04.2017, it is true that the liability of the appellant arise only when the consumer fails to install the meter within two months from the date of communication of the authority concerned. Communication given to the appellant consumer vide on 27.09.2017.

Appellant communicated with the Executive Engineer, TMR, Thirumala instead of the Agreement Authority Deputy Chief Engineer, Electrical Circle, Kattakada. The notice was issued by the Agreement Authority for replacing the faulty meter wherein all specifications regarding the new metering system was described in detail to the appellant. Hence appellant ought to have responded to the communication properly within the stipulated time as per the Gazette notification in this regard. Gazette notification is a public document and conclusive proof of its contents and no further notices are necessary in this regard.

In the instant case, the appellant contacted the authority concerned (Agreement Authority) after the expiry of the stipulated time i.e., 60 days from the communication. The communication was given by the (Agreement Authority) authority concerned to the appellant on 27.09.2017, but the appellant changed the faulty meter only on 19.01.2018, hence the Respondent Kerala State Electricity Board Limited imposed meter faulty penalty as per Part B Regulation 4 (d) of the schedule of the tariff and Terms and Conditions for Retail Supply of Electricity by Kerala State Electricity Board Limited, published in the Extra Ordinary Gazette dated 21.04.2017.

The Respondent Kerala State Electricity Board Limited rejected the representation of the appellant regarding the refund claims due to failure of the replacement of faulty meter within the stipulated time. In the instant case, meter faulty penalty, imposed by the Kerala State Electricity Board Limited, is strictly abiding the prevailing rules/regulations.

The Consumer Grievance Redressal Forum vide its order dated 31.12.2018 in the OP No.124/18 filed by the appellant ordered that, "the faulty meter should have been replaced before the expiry of two months from the date of receipt of intimation letter of licensee. Hence the consumer is liable to pay the demand raised by the licensee and there is no relevance for the claim of refund.

Analysis and findings:

The hearing of the case was conducted on 04-04-2019 in the CGRF Court Hall, Kottarakkara and Sri. Ansar K.H., Advocate represented for the appellant's side and Smt. Sheeba M, Assistant Executive Engineer, Electrical Sub Division, Venjammoodu appeared for the respondent's side. On

examining the petition and the arguments filed by the appellant, the statement of facts of the respondent, perusing the documents attached and considering all the facts and circumstances of the case, this Authority comes to the following conclusions leading to the decision.

As per the appellant, a notice for replacement of metering system was received by him on 06-10-2017 and the metering system was replaced on 19-01-2018. The appellant's main argument is based on the fact that the specifications of CT to be purchased was not mentioned in the letter of the Deputy Chief Engineer and hence some clarifications were required to them which led to the delay in the procurement of metering system.

The respondent has stated that 50% extra over the prevailing rates for both demand and energy for the prescribed period was raised by the Special Officer (Revenue), KSEB Ltd. strictly in adherence with the general conditions for HT and EHT tariff under para 4 (d) of part B. The metering components were replaced on 19-01-2018, i.e., 90 days after the intimation to the appellant and as per clause 9 (b) of the agreement executed between the respondent and the appellant, the tariff notification issued by the KSERC for the Licensee from time to time shall form part of the agreement and the agreement shall stand modified to that extent.

In this case, it is clearly proved from the records that the appellant has been received the letter issued by the Deputy Chief Engineer on 06-10--2017 as admitted by the appellant himself. But the respondent has stated that a copy of the communication addressed to the Deputy CE was given to the appellant on 27-09-2017 itself and directed to replace the metering system at the earliest. It is found that the appellant had submitted a letter dated 09-01-2018 to the Assistant Engineer for remitting the testing fee of the ToD meter and CT, PT unit. The gate pass issued on 15-01-2018 by the TMR Division, Thirumala shown that the metering system produced for testing on that date only. Hence the metering system was replaced only on 19-01-2018. According to the appellant, they have sent the quotations to the respondent for approval and for getting some clarifications for the specifications of the metering system to be purchased. As per the appellant this was the cause for the delay. It is simply possible for the appellant to obtain any clarification regarding the specifications of the metering system to be purchased, by approaching the concerned officers directly or by contacting over phone.

The general conditions for HT and EHT tariff under para 4 (d) of part B provides that "if any existing consumer, having elected to purchase and supply the meter for replacement of the defective meter in his premises, fails to do so within two months, such consumer will, be charged 50% extra over the prevailing rates applicable to him for both demand and energy for the said two months and one month thereafter."

This provision never insists the installation of the meter within two months from the date of receipt of the communication from the licensee, but the consumer has to purchase and supply the meter within two months. Any delay caused beyond the two months for testing, calibrating, sealing and installing the meter by the licensee is not the liability of the consumer. In this case the appellant purchased the meter after two months of receipt of the intimation notice and the appellant remitted the testing fee on 09-01-2018 and produced it for testing only on 15-01-2018. The explanations for the delay in purchasing the metering system and for testing the same is not sustainable.

Decision:

From the analysis done above and the conclusions arrived at, the appellant's plea to waive the penalty imposed is rejected and this Authority uphold the decision taken by the CGRF, Kottarakkara in OP No.124/2018 dated 31-12-2018.

The appeal is found devoid of any merits and hence dismissed. Having concluded and decided as above, it is ordered accordingly. No order on costs.

ELECTRICITY OMBUDSMAN

P/014/2019

Delivered to:

1. Sri. P.M. Pareethu Bava Khan, General Secretary, Muslim Association, College of Engineering, Venjarammoodu, Thiruvananthapuram
2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Ltd, Venjarammoodu, 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.