



VIDUYUT OMBUDSMAN FOR THE STATE OF TELANGANA

First Floor 33/11 kV substation, Hyderabad Boats Club Lane
Lumbini Park, Hyderabad - 500 063

:: Present:: **R. DAMODAR**

Monday, the Seventeenth day of August 2015

Appeal No. 37 of 2015

(Old Appeal No. 75 of 2014)

Preferred against Order Dt. 8.10.2014 of CGRF In

CG.No: 254/2014 of Khammam Circle

Between

Smt. Pinni Jaya Lakshmi
W/o Venkata Narayana
H.No 3-115,
Enkooor Village & Mandal,
Khammam Dist 507 168.

Appellant

.....

AND

1. The ADE/OP/T/Khammam/ Khammam District.
2. The DE/OP/Khammam/ Khammam District.
3. The AAO/ERO/Khammam/ Khammam District.
4. The SE/OP/Khammam/ Khammam District.

..... Respondents

The above appeal filed on 06.11.2014 came up for final hearing before the Viduyut Ombudsman, Telangana State on 22.07.2015 at Hyderabad in the presence of Sri. Pinni Venkata Narayana - For the Appellant and Sri. G Sridhar - AAO/ERO/Khammam, Sri. N Balaji - ADE/T/Khammam for the Respondents and having considered the record and submissions of both the parties, the Viduyut Ombudsman passed the following;

AWARD

The Appellant was a consumer of HT Service Connection No. 64344 in which a granite factory was set up. The Appellant claimed that she sustained heavy losses in the business and sold the machinery along with electric motors on 23.7.2013. At that time, the Appellant met the 3rd Respondent AAO/ERO and requested to

dismantle the connection. The AAO advised the Appellant that with minimum charges for 4 months, the Appellant should pay Rs 4,05,849/- The Appellant, as per the advice, paid Rs 4,05,849/- on 20/10/2013. She had submitted an application for dismantling the service connection. The Appellant was advised that if HT Connection is converted into LT connection, the Appellant would get a bill of Rs 4000/- per month and therefore, the Appellant may get her HT connection converted to LT Connection. The Appellant was not advised that DTR and structure would be taken over by the distribution company in case of conversion to LT and also at the termination of the service connection.

2. The Appellant further claimed that even though she has not used even 1 unit of power, she got a bill for about 6 months amounting to Rs 2,26,000/- The Appellant approached the 4th Respondent SE/OP who told her that due to DTR fault, such bill may come and that she should pay the bill. The 4th respondent also told the Appellant that DTR and structure would go to the DISCOM.

3. The Appellant thereafter submitted a complaint before CGRF, demanding waiver of the bill, refund of security deposit and return of DTR and structure.

4. The 3rd Respondent AAO/ERO claimed that the the Appellant was sanctioned Service Connection No. 1301 64344 under category III B at IDA Khammam on 10.12.2007 with a connected load of 120 HP and it was disconnected during August, 2013 due to non payment of CC charges. The 3rd Respondent vehemently denied having advised the Appellant or anybody to change category from HT to LT. He admitted however that somebody approached his office and enquired about the minimum bill if there is a change from HT to LT and that somebody advised her, that in such a case, the minimum bill would not exceed Rs 4,500 pm. The 3rd Respondent claimed that on 20.8.2013, the Appellant requested the 2nd respondent DE/OP to change the supply from HT to LT and paid the requisite fee and based on that, the 2nd Respondent sanctioned the load reduction. The Appellant paid the required payment and from Dec, 2013 the present service was billed under LT category III with a sanctioned load of 99 HP. From Dec-2013, the billing was being done based on actual consumption. The consumer has to pay FSA as per the orders of ERC. The 1st Respondent ADE/OP claimed similarly as the 3rd Respondent before the CGRF.

5. After hearing and based on the material available, CGRF opined that from Dec, 2013 onwards the billing was done based on actual consumption and as per GTCS, LT III A consumer's DTR would be deemed to be the property of Distribution

company. CGRF further opined that there is no progressive reading from Dec 2013 to Feb, 2014 though the the First Respondent ADE/OP certified in Oct, 2013 that there is no equipment in the premises and failed to publish F.R of the meter. CGRF, based on this material directed :-

- a) Withdrawal of CC charges raised from Dec, 2013 to Feb, 2014 based on the report of the 1st Respondent dt. 22.10.2013.
- b) Directed adjustment of security deposit available on SC No. 64344 towards outstanding dues.
- c) To take necessary steps to dismantle the service as per the procedure.
- d) Collect FSA charges as per the orders of the ERC and then advised the Appellant that once the service is shifted from category III B to LT III A category, she would be treated as such consumer and would have no right over DTR in future and it became the property of Distribution company which would maintain it.

6. CGRF further directed suitable action on the concerned for not informing the Appellant regarding the status of DTR once her HT Service Connection was converted to LT, through the impugned orders.

7. Aggrieved and not satisfied with the impugned orders of the CGRF, the Appellant preferred the present Appeal, claiming that the Appellant is the owner of the DTR and she has not consumed any power after disconnection and hence the bill for 6 months Amounting to Rs 2,26,000/- is liable to be set aside.

8. On behalf of the Respondents, memos of CPDCL dt 22.4.2014 and NPDCL dt 19.6.2012 etc are filed in support of their claim that in case of LT service connections, it is the distribution licensee who owns the transformer and maintains it.

9. **HEARD ARGUMENTS**

10. The points for determination are:-

1. Whether the impugned order are liable to be set aside?
2. Whether the Appellant is entitled to ownership and possession of DTR erected by her, at her cost while getting HT connection?

3. Whether it is the distribution licensee who has to supply DTR to LT consumers as per clause 8 sub clauses, 3 and 4 of Regulation No. 4 of 2013, and whether the distribution licensee shall own the transformer and maintain it?
4. Whether the Appellant who had HT service Connection and fixed DTR and structure on her own for drawing of power, and later got the Service derated as LT service connection, would lose ownership of DTR and it is the Distribution licensee who becomes owner of DTR and maintains it?

POINTS 1 to 4.

11. The Appellant claimed that on 22.10.2013, she had cleared all dues amounting to Rs 4,05,849/- including 4 months minimum charges, which is obviously in response relating to the disconnection of service connection in August, 2013(as per ADE/OP R1&R3) for non payment of CC charges. The Appellant claims that since there was no machinery available and there was no work in the unit, there could be no consumption of power and therefore, the demand made for payment of Rs 2,26,000/- for Six months is unjust and illegal.

12. In the First instance, it is necessary to decide about the status of DTR purchased and fixed by the Appellant to her HT connection No. 64344.

13. The Respondents claimed that the Appellant, on 22.10.2013, made a request to reduce the load from 120 HP(HT) to 99 HP(LT) and convert the service connection from LT III B to LT Category III duly paying arrears of Rs 3,05,849/- (as per ADE/OP R1). The Appellant claimed that the service connection No. 1301 64344 was released in her name under category III B with connected load of 120 HP . This was derated to 99 HP and converted from LT III B(HT) to LT category III(LT). The Appellant paid arrears amounting to Rs 3,05,849/- . At the time of securing HT service connection, the Appellant purchased DTR and got it erected at her cost in her unit. In all HT connections, as per the practice, the consumer has to bear the expenses for erecting DTR and structure and maintain it. Whereas, in case of LT connection, it is the distribution Licensee which has to provide DTR, own it and maintain it. The relevant clause 8 sub clause 3 of Regulation No. 4/2004 is as follows:-

“ The Distribution licensee shall recover full cost of transformer in case of commercial complexes, apartments and multi storied buildings where a dedicated transformer is provided while extending a new LT Connections.

In such cases, the Distribution licensee is not entitled to collect the development charges and shall own the transformer and maintain it. The distribution licensee shall not extend power supply to any other consumer from the dedicated transformer other than the consumer who has borne the full cost of transformer.”

Clause 8 Sub clause 4 is as follows:-

“In case of LT supply the responsibility of erection of distribution transformer lies with the Distribution licensee and shall not charge cost of transformer to any consumer except those consumers mentioned in para 3 above and levy only development charges.”

From the above, it is clear that only in case of LT supply, except those consumers mentioned in subclause 3, the Distribution licensee has the responsibility for erection of DTR and collect development charges. The Appellants service connection falls under the Industrial Category. Hence the above clauses do not apply to the service connection of the Appellant.

14. In the present case, the Appellant sought deration of power from LT Category III(B) to LT category III by way of her representation dt 22.10.2013 from 120 HP to 99 HP. At the time of deration, according to the ADE/OP respondent No. 1, DTR will be deemed to be the property of NPDCL . Even the 2nd Respondent claimed so by way of his letter dt.29.11.2013 to the following effect :-

- i) The consumer has to handover the DTR to the NPDCL on as is where basis and submit an undertaking.
 - ii) Once the consumer is shifted from LT Category III B (HT) to LT Category III (LT), he will be treated as normal LT category III A consumer and further, he will not have any right on the DTR, which is handed over and which is deemed to be the property of the Distribution licensee.
15. The Appellant entered into LT agreement for category change in the year, 2013 (day and month is not mentioned) and this document does not bear the signature of any of the Respondents and it does not contain any term which shows that the Appellant agreed to handover the DTR and structure after conversion from HT to LT category.

16. After conversion of LT Cat III B/ HT Cat - I to LT Category, it is the duty of the Respondents to erect DTR and levy only development charges as per Sub clause 4 of

clause 8 of regulation 4 of 2013. Since the consumer had already paid the development charges at the time of release of LT III(B) service connection for connected load of 120 HP, which is higher than now being demandable load of 99 HP, no such development charges again have to be paid by the Appellant. As per subclause 4 of clause 8, it is the licensee who should erect DTR and maintain it. As far as HT connection is concerned, there is no doubt about who has to bear the expenses for erecting the DTR transformer and the consequences thereof. The Respondents by taking shelter have claimed that since the Appellant was given LT service connection, the DTR becomes the property of distribution licensee and also for maintenance. When questioned across the bench as to why and for what purpose DTR of the Appellant becomes property of the distribution licensee, the Respondents have one word to say. "For the purpose of maintenance." It is clear that the DTR erected for HT service connection has to be maintained by the consumer and not by the distribution licensee. Only on the basis of an internal memo CGM/OP/COML.&IPC/ADE(COML)./F/D.No. 184/12 dt. 19.6.2012 of NPDCL which clarified regarding existing LT -111(B)/HT 1 consumers having connected load of 100 HP who wish to switch over to LT - III A, the consumer has to handover the DTR to NPDCL on as is where basis and submit an undertaking in this regard and then the DTR will be deemed to be the property of NPDCL. Regulation 4 of 2013 says except in case of noted consumers in subclause 3 of clause 8, the DTR shall be erected by the distribution licensee and therefore, it would become property of the distribution licensee and it has to maintain it and in that case it cannot collect the development charges. Under subclause 4, it is the responsibility of the distribution licensee to erect DTR and collect only development charges.

17. There is nothing in regulation 4 of 2013 to show that in case of shifting of consumers from HT to LT, the consumers has to handover DTR on as is where basis and then it becomes the property of the distribution company. Thus the memo of CGM dt 19.6.2013 is not finding support from regulation 4 of 2013. Consequently, the written submission filed by the first respondent ADE/OP who claimed similarly does not stand to scrutiny. Thus the claim of the Respondents that merely because the service connection was derated from 120 to 99 KVH and from LT Category III B (HT) to LT III A(LT) the DTR became the property of Distribution licensee is unsustainable and not legal. The plea of the Appellant that she was not put on notice on this aspect is tenable. The Respondents have no right over DTR purchased and erected by the Appellant in her stone crushing unit and they cannot own it. The DTR and structure shall be the property of the Appellant.

18. The CGRF, by way of the impugned orders, directed the Respondents to withdraw CC charges raised from Dec 2013 to Feb 2014 based on ADE inspection Report dt. 22.10 .2013 duly collecting the minimum charges etc. This has been complied with according to the Respondents. The Appellant has cleared the dues on 22/10/2013 against the service connection. The 3rd Respondent AAO/ERO submitted arrears calculation sheet showing the following:

• Service was disconnected on	<u>28.2.2014</u>
• Arrears as on date of Disconnection(02/14)	173061.00
• 4 months minimum charges	
Meter reading upto 748337 KVAH	17850.00
• 1,177 units were not billed at the time of disconnection with final reading as 74,7160 KVAH	
• Billed amount for 1177 units	7156.16
• FSA charges to be paid for the period from March 2014 to September 2014	71,725.00
• ED	
• Additional charges for 4 months on CB	15.72
• Meter dismantling charges	10,383.66
	<u>3,000.00</u>
	<u>2,83,191.54</u>
• Less Amount withdrawn as per CGRF orders	
• Total Amount due	(-)
• (-)Security Deposit Available	<u>53,914.00</u>
	<u>2,29,27.54</u>
• Balance amount to be paid	(-)1,47,560.00
Rounded off to	<u>81,717.54</u>
	<u>81,818.00</u>

19. As per the record, though the consumer claimed that the unit had no machinery and motors since she sold them on 23/7/2013, the meter shows consumption of 1,177 units. The Respondents claimed that it was reflecting the consumption of power for lighting the area. This is odd to believe. The Appellant claimed that when she questioned as to how this consumption was recorded when there was no apparent use, the SE/OP, (R4) claimed to have told her that due to transformer fault, such reading may come up. This transformer fault ought to have been rectified by the Respondents, when she pleaded for dismantling her Service Connection on 9.7.2014. At

this stage, it can only be said that the Appellant has not got correct advice and assistance from the respondents in getting the service connection dismantled. Since the record shows that the consumption is recorded, may be due to the inaction or absence of proper advice of the Respondents, the Appellant has to bear the amount shown as balance Rs 81,718/-, but without any further interest, if paid within 3 months, from the date of this order to offset the loss suffered by her.

20. In the result, the Appeal is partly allowed holding that:

- i) The impugned orders are set aside.
- ii) The DTR and structure shall be the property of the Appellant and the Respondents have no right over the property.
- ii) The Appellant shall pay an amount of Rs 81,718/- to the Respondents towards dues within 3 months from the date of this order, else the amount shall carry interest @12% P.A from the date of this order, till payment.

The points are answered accordingly.

Corrected, Signed and Pronounced on this 17th day of August 2015.

Sd/-

VIDYUT OMBUDSMAN

1. Smt. Pinni Jaya Lakshmi
W/o Venkata Narayana
H.No 3-115,
Enkoor Village & Mandal,
Khammam Dist 507 168.
2. The ADE/OP/T/Khammam/ Khammam District
3. The DE/OP/Khammam/ Khammam District.
4. The AAO/ERO/Khammam/ Khammam District.
5. The SE/OP/Khammam/ Khammam District.

Copy to:

6. The Chairman, CGRF, TSNPDCL, Nakkalagutta, Hanamkonda, Warangal District.
7. The Secretary, TSERC, 5th Floor, Singareni Bhavan, Red Hills, Hyderabad.