



VIDYUT 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 Twenty Third Day of November 2015

Appeal No. 53 of 2015

Preferred against Order Dt. 27.4.2015 of CGRF In

CG.No: 319/2015 of Warangal Circle

Between

Smt. S.B.Rukmini, H.No. 4-4-10, Behind Marwadi Satram, New Street,
Mahabubabad, Warangal Dist - 506 101. Mobile: 7386408418

..... Appellant

AND

1. The AE/Operation/TSNPDCL/Mahabubabad- 9440811365
2. The ADE/OP/TSNPDCL/Mahabubabad- 9440811334
3. The AAO/ERO/TSNPDCL/Mahabubabad-9440811288
4. The DE/OP/TSNPDCL/Mahabubabad-9440811317

..... Respondents

The above appeal filed on **09.06.2015** came up for final hearing before the Vidyut Ombudsman, Telangana State on **14.07.2015** at Hyderabad in the presence of Sri. S.B Rama Krishna - on the be-half of Appellant and Sri. N.V. Ramana Reddy - ADE/OP/Mahabubabad, Sri. D. Kalidasamurthy - AAO/ERO/Mahabubabad for the Respondents and having considered the record and submissions of both the parties, the Vidyut Ombudsman passed the following;

AWARD

The Appellant, who has SC No. 04487 CAT -II B of Mahabubabad, encouraged by a news report published in the Eenadu daily in its issue dt 3/06/2014 to the effect that “the power generating company (APGENCO) had collected excess amounts from the power distribution companies and having scolded by the then APERC, the GENCO was directed to refund the excess amount collected to the DISCOMS within 6 months and this amount has to be refunded to the consumers and that there were discussions for returning this amount to consumers and that for the years 2006-14, the power generation company had collected Rs 2081.81 crores”,

lodged a complaint with CGRF seeking refund of FSA charges collected on SC No. 04487 Category II B by means of an adjustment of Rs 50,000/- into the account of SC No. 1588 Cat I of Mahabubabad. The Respondent No. 3 AAO/ERO/Mahabubabad submitted before CGRF that there was no provision to adjust FSA amount, unless specific orders are received from his higher authorities.

2. The 2nd Respondent submitted a report dt. 11.3.2015 to the effect that the Appellant submitted a representation 20.4.2013 requesting for cancellation of SC No. 460104487 Category II of Mahabubabad duly collecting total arrears, with a request to transfer the balance deposit amount to SC No. 14601 01588, Cat I of Mahabubabad. He stated that accordingly, the AAE/OP/Mahabubabad Town submitted a proposal for dismantlement of SC No. 4601 04487, Category II of Mahabubabad, transfer of the cable pole rental charges to SC No. 14601 19662 Category II of Mahabubabad town and issue of no due certificate.

3. The 2nd Respondent submitted that this recommendation for dismantlement has been processed. He further stated that the Appellant claimed that an amount of Rs 50,000/- was collected as FSA on SC No. 4601 04487 Category II B of Mahabubabad town and requested the Respondents to adjust this amount to SC No. 14601 01588 Cat I of Mahabubabad town. R2 further pleaded that there is no provision to adjust FSA amount based on newspaper publication.

4. The CGRF, on consideration of the material on record, opined that the FSA would be included/adjusted in the CC bills as per the orders issued by ERC from time to time and therefore, CGRF has no power to intervene in the matter. By so holding, the CGRF disposed the Appeal by orders dt. 27.04.2015 without going into the reasons leading to the publication of the news item in the Telugu daily.

5. Aggrieved and not satisfied with the impugned orders, the Appellant preferred the present Appeal, claiming similarly as she did before the CGRF that no orders have been passed by CGRF on her complaint.

6. After disposal of the complaint by CGRF, the AAE/OP/Mahabubabad recommended to the 3rd Respondent for dismantling the service and issue of No Due Certificate, apart from pole charges transfer to another service connection as requested by the Appellant. The Appellant had addressed the Respondent No.1 vide her representation dt. 20.4.2013 stating that her son sustained loss in the cable TV business and sold it to another person from Hanamkonda and therefore, she wanted dismantlement of SC No. 4487, Category II standing in her name and requested that

any dues or outstanding amounts on this service connection be transferred to her household Service Connection No. 1588 Cat I.

7. The 2nd Respondent submitted a report in this Appeal to the effect that as requested by the Appellant, the service connection No. 4601 04487 was dismantled and the balance security deposit amount of Rs 2658/- was adjusted to her domestic connection No. 14601 01588 in the month of May, 2013. He further stated that FSA was collected from time to time as per the orders issued by the APERC and these orders are available in the website of APERC. He submitted a chart stating that from April, 2008 to March 2012, the FSA charges were collected on the basis of consumption in SC No. 4601 04487 from the month of July, 2010 to May, 2013 amounting to Rs 43,587/89 and no advance FSA charges were collected as claimed by the Appellant. He stated that a review of FSA CHARGES is possible only by the orders of the ERC.

8. On the basis of the representation of the Appellant and the news item printed in the Eenadu daily, this office addressed a letter to ERC seeking information about any direction given by APERC on or before 3.6.2014 to the DISCOMS for refund of FSA in view of excess collection of FSA against the directions of APERC as disclosed in the newspaper item.

9. The Secretary, TSERC through his response stated that the Commission has passed an order in OP No. 27 of 2006 and OP No. 4 of 2007 for the FY 2006-07 to 2008-09 and as per this order, AP DISCOMS have to pay Rs 715.67 Crs to APGENCO, which is the difference between the amount allowed in the respective Retail Supply Tariff Orders and the amount allowed in the orders in the OPS. It was further stated in the orders that the DISCOMS and GENCO have to verify the actual amount paid to APGENCO and after ascertaining the amount, the balance amount has to be paid.

10. The Secretary, TSERC further stated similarly that in OP No. 15 of 2009 for the period FY 2009-10 to 2013-14 ERC passed an order against DISCOMS directing them to pay Rs 2081.81 Crores to APGENCO which is the difference between the amount allowed in the respective Retail Supply Tariff Orders and the amount allowed in the order in the OP. It is further stated in the orders that the DISCOMS and GENCO have to verify the actual amount paid to APGENCO and after ascertaining the amount due, the balance amount has to be paid.

ARGUMENTS HEARD.

11. There was no scope for mediation in the matter, as the Respondents have no power over decision on the dispute in this case.

12. The following issues arise for determination:

- i. Whether the Appellant is entitled to refund of FSA of Rs 50,000/- / 43,587.89 ps collected on her SC No. 4601 04487 CAT II for transferring the amount to the credit of her domestic SC No. 14601 01588?
- ii. Whether the newspaper item can be a ground to direct the Respondents to refund the FSA amount to the Appellant?
- iii. Whether the impugned orders are liable to be set aside.

ISSUES 1 TO 3

13. The Appellant claims to have SC No. 04487 Cat II B in which her son was running a cable tv business, and when he suffered losses, her son sold the business to another person, leading to the Appellant seeking dismantlement of the Service Connection and making a request to the Respondents to adjust an amount of Rs 50,000/- stated to be the amount representing FSA collected and credit the amount to her domestic service connection No. 1588 Category I of Mahabubabad. The Respondents claimed that unless there is an order from the ERC regarding imposition or withdrawal of FSA, they have no power to act on the issue of FSA, much less based on a newspaper item published in Eenadu newspaper dt. 3.6.2014.

14. The Respondents claimed that they have not collected any advance FSA for consideration of refund of the amount and that they have collected FSA on the service connection in question for the years 2008-09 to 2011-12 (upto March, 2012) amounting to Rs 43,587/- from July, 2010 to September, 2014.

15. The DISCOMS, as rightly claimed by the Respondents, have no power to either collect FSA for any period or refund the amount, without specific directions from the ERC.

16. As far as the newspaper item published is concerned, the response of ERC is that for the years 2006-07 to 2008-09, the APERC has passed an order in OP No. 27 of 2006 and for the FY 2006-07 to 2008-09, an order in OP No. 4 of 2007 and as per these orders AP DISCOMS have to pay Rs 715.67 Crs to APGENCO which is the difference between the amount allowed in the respective Retail Supply Tariff Orders

and the amount allowed in the order in the OP. It was further stated in the orders that the DISCOMS and GENCO have to verify the actual amount paid to APGENCO and after ascertaining the amount the balance amount paid has to be paid to APGENCO.

17. The news report in question discloses as if APGENCO had collected 2081.81 crores from the DISCOMS additionally and that APERC directed APGENCO to refund this amount to DISCOMS. Obviously this amount was presumed to have been collected from the consumers, without any authority. The newspaper report is misleading in the sense that as per the response of the ERC, it was the DISCOMS which were directed to pay Rs 715.67 Crores for the FY 2006 - 07 to 2008-09 and Rs 2081.81 crores for the FY 2009-10 to 2013-14 to APGENCO by way of orders passed in OP'S 27 of 2006, 4 of 2007 and in OP No. 15 of 2009. The newspaper report, it is clear from the response of ERC is totally misleading and without any basis, leading to misunderstanding of the facts by everybody including the consumers. Thus merely on the basis of newspaper item published, there could be no order for refund, without any support from the order of ERC in the present case.

18. The grievance of the Appellant that APERC has directed APGENCO to refund the huge amount to DISCOMS, who would have collected these amounts by way of FSA charges illegally, is not based on proper understanding of the facts. It is clear that the Appellant was misled by the newspaper report, which misinterpreted the orders passed by the APERC in the OP'S by exercising jurisdiction under Sec 62 of the Electricity Act, 2003.

19. In view of the aforementioned discussion, it is clear that the Appellant is not entitled to refund of FSA charges as claimed by her and it is also clear that the Respondents have no authority either to impose or withdraw FSA charges collected without authorisation from ERC.

20. CGRF, without trying to enquire into the veracity of the newspaper report relied on by the Appellant, passed the impugned orders leading to a grievance to the Appellant that her complaint was not addressed by the CGRF properly, which claim has substance.

21. The issues 1 to 3 are answered accordingly.

22. In the result the Appeal is dismissed as having no merits.

Corrected, Signed & Pronounced on this the 23th day of November, 2015.

Sd/-

VIDYUT OMBUDSMAN

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Copy to :

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