

Before the Karnataka Electricity Regulatory Commission, Bangalore

Dated this the 1st day of July 2004

Present

- | | | |
|---------------------------|---|----------|
| 1. Sri. Philipose Matthai | - | Chairman |
| 2. Sri. H.S. Subramanya | - | Member |
| 3. Sri. S.D.Ukkali | - | Member |

Case Nos: OP - 09/2004

Between

Sri B.Prema Kumar,
#27, 7th Cross, Central Excise,
Bhoopasandra, RMV II stage,
Bangalore

Petitioner

and

1. Managing Director,
BESCOM
K.R.Circle,
Bangalore -1
2. Executive Engineer, (Ele),
Additional Central Division,
BESCOM, Hebbal,
Bangalore
3. The Asst. Exe. Engineer, (Ele),
C - 4, Sub Division,
BESCOM, Hebbal,
Bangalore

Respondents

(By Sri S.Sriranga, Adv.)

The Petitioner is aggrieved by the arrears claim made by the Respondents without first giving him any notice as to how the arrears came to be demanded from him. The facts of this case, in a nutshell, may be stated as follows. -

The Petitioner constructed a new house in Bhoopasandra, RMV II Stage, Bangalore in 1998. He availed temporary power supply for construction purposes through RR No. C-4 TP 8980. After completion of the construction work permanent power connection RR No.E4 40773 was sanctioned to him. This registration number was changed to RR No. C4 EH 41187 in September 1999. The Petitioner claims that he never defaulted any payment towards energy charges and maintained nil arrears on his account. However, from the billing month of December 2003 an arrears of Rs. 13,359.46 was shown in the arrears column of the energy bill. He claims that he was not given any notice for these arrears and the arrears were not explained in the bill. He made correspondence with the Respondents to know the reason for arrears, but he was not given any reply. He went on paying the current charges by obtaining temporary bills. It is further stated that he paid under protest one installment, out of six, of these arrears for the fear of disconnection. He has filed this Petition to waive off the arrears since such arrears cannot be claimed beyond three years under the ES & D Code of 2000-2001.

2. The Respondents have put in appearance and have filed a statement of objections. The following points have been raised in the said statement. -

(i) The petition is not maintainable , as there is no provision to waive off the arrears and interest thereon.

(ii) The Petitioner was sanctioned temporary load of 1 HP at the time of construction. He exceeded the sanctioned load and after inspection on 12.6.1999, he was back billed for Rs. 13,838/-.

(iii) The Petitioner was served with notice in 1999 and he was asked to pay the back-bill within 30 days. However, he ignored the notice and therefore it is shown as arrears, after locating the new permanent number of the Petitioner.

(iv) The arrears of any installation under disconnection may be collected from any other installation of the same consumer, according to Regulation 4.12(vi) of the ES & D Code, 2000-2001. Therefore the arrears of the temporary connection has been raised in the bills of permanent connection after the correct number was located.

3. We have heard the Petitioner and the learned Counsel for the Respondents. We have also examined the copies of the documents produced by the Petitioner and the Respondents. The Petitioner argued that he never received any notice from the Respondents and he did not receive the copy of the letter produced by the Respondents and it does not bear any acknowledgement from him. He maintained that the arrears was raised against him for the first time in December 2003, after a lapse of 4 ½ years, which is not in accordance with the ES & D Code. The learned Counsel for the Respondents reiterated the points raised in the statement of objections, and contended that the back-bill was demanded as early as in June 1999 and the claim is regular.

4. We have carefully considered the various points raised by the Petitioner and the learned Counsel for Respondents. We feel that there may be a grain of truth in the contention of the Respondents that the Petitioner exceeded the sanctioned temporary load and was back billed after inspection. But we notice that the Respondents have no documentary evidence to show that they ever demanded this back-bill in 1999. The copy of the letter produced by the Respondents does not bear any acknowledgement of the Petitioner and does not connect him to the said back bill. The Respondents have not explained as to how the bill demanded by them remained as arrears for four long years without any attempt by the Respondents to collect it, and surfaced only in December 2003. Therefore, we have to conclude that the so called arrears, which became due in June 1999 was raised for the first time in December 2003. According to Regulation 29.09 (a) of the KER C (ES & D) Code 2000-2001, the Respondents shall not claim any payment towards short claim for back period beyond 3 years.

Thus, the arrears demanded by the Respondents, in this case, is time-barred and is irrecoverable.

5. In the light of the foregoing, we consider it to be a fit case to exercise suo motu powers under Regulation 44.10 of the ES & D Code 2000-2001, and hold that the arrears and the interest thereon, demanded from the Petitioner in this case is time-barred and therefore, not recoverable under the ES & D Code. The Respondents shall refund the amount already recovered from the Petitioner as an installment of the arrears, and adjust the same in the future bills of the Petitioner.

6. The Petition is **allowed**. It is so ordered.

(Philipose Matthai)

(H.S.Subramanya)

(S.D.Ukkali)