

**BEFORE THE ELECTRICITY OMBUDSMAN**

No.16 C-1, Miller Tank Bed Area (Behind Jain Hospital)  
Vasanthanagar, Bengaluru-560052.

Present: S.S Pattanashetti,  
Electricity Ombudsman,

**Case No. OMB/B/G-345/2019**

**Dated 17/10/2019**

In the matter of

Smt. V. Padmavathi,  
W/o M. Narasa Raju,  
No. 28, GF-1, Koundinya Apartment,  
3<sup>rd</sup> Temple Road, 15<sup>th</sup> Cross,  
Malleshwaram,  
Bangalore – 560003.

Represented by:  
Shri M. Prasad Raju,  
2112, 9<sup>th</sup> Main, 'D' Block,  
Sahakarnagar,  
Bangalore – 560092. -

Appellant

Vs

1) The Assistant Executive Engineer (Elec.),  
O & M, N8 Sub Division, BESCOM,  
D group Layout,  
Srigandhada Kavalu,  
Bangalore – 560091.

2) Chairman, Consumer Grievance Redressal Forum (CGRF)  
Bengaluru Urban District,  
West Circle Office, BESCOM,  
CA Site, No. 05, West of Chord Road,  
3<sup>rd</sup> Stage, Bhima Jyothi, HSBC Layout,  
Next to Chord Road Hospital,  
Basaveshwarnagar,  
Bangalore – 560079. -

Respondents

1) This Application/Complaint is filed before this Authority, by Smt. V. Padmavathi, (Appellant/Complainant), under the provisions of Clause 21.2 of the KERC (Consumer Grievance Redressal Forum and Ombudsman) Regulations 2004, in Form 'B' challenging the order No. CGRF 33/2018-19/689-91 dated 18-05-2019 of CGRF, Bengaluru Urban District, by inter-alia seeking the following reliefs:

- a) The category under HT-2 C(ii) is to be considered up to 31-03-2017 and the short billing of Rs. 3,02,950/- done from 01-06-2015 to 31-03-2017 for 2 years, retrospectively, is prayed to be withdrawn.
- b) AEE N8 subdivision BESCO may please be ordered not to disconnect the service until the appeal is disposed off in the office of the Hon'ble Ombudsman.

2) Brief facts, which are relevant to the case on hand, are as follows:

Installation No. N2HT103 is sanctioned in the name of Smt. V Padmavathi on 03-04-2012 for 100 KVA under HT-2(B) tariff to run a hospital. In 2013 KERC issued tariff order introducing 2 new categories of tariff namely HT-2C(i) and HT-2C(ii). Under HT-2C(i) all Government hospitals, hospitals run by charitable institutions, ESI Hospitals, Universities and Educational Institutions belonging to Government and Local Bodies, Aided Educational Institutions and hostels of all educational institutions were included. Under HT 2C(ii) all Hospitals and Educational Institutions other than those covered under HT-2C(i) were included. The Respondent-1/AEE received instruction from his Executive Engineer dated 28-08-2013 asking him to implement the instructions of the BESCO corporate office in letter dated 31-05-2013, which asked their Software Company Infosys Technologies to implement the KERC Tariff order 2013. On

21-03-2014 Respondent-1/AEE issued an Official Memorandum to change the tariff of Appellant/Complainant's installation N2HT103 from HT-2(B) to HT-2C(ii). On 20-02-2018 Respondent-1/AEE inspected the premises of the Appellant/Complainant and observed that activities like laboratory, scanning, CT, MRI, X-Ray, investigations, consultation, physio therapy, dialysis and dental clinic are being run in the premises. It is specifically recorded in the inspection report by AEE that there is no in-patients facility and admission in the premises. Hence it was opined by the Respondent-1/AEE that the installation is to be billed under HT-2(B) Tariff. This report is also signed by representative of the Appellant/Complainant, who has put his signature and seal of Gayatri Diagnostics and Health Services. In pursuance to the inspection report of the AEE dated 20-02-2018, a letter was issued to the Appellant/Complainant on 12-03-2018 stating that as electricity was being used to run a Diagnostic Centre, and not a hospital, they should have been billed under HT-2(B) tariff and not under HT-2(C) tariff from 01-06-2015 to 01-03-2018. The Appellant/Complainant was asked to pay short claim bill of Rs. 4,71,708/- within one month and if they had any objections to file the same within 15 days in writing. Challenging the letter of AEE dated 12-03-2018, Appellant/Complainant filed a complaint before the CGRF Bangalore Urban District. The CGRF, Bangalore Urban District after conducting enquiry, has passed an order on 18-05-2019 dismissing the complaint of the Complainant and directing the Respondent-1/AEE to collect the short claim amount. In accordance with the CGRF order, the Respondent-1/AEE has issued a letter dated 29-05-2019 to pay the amount. Aggrieved by the order of the CGRF dated 18-05-2019, the

Appellant/Complainant Smt. V Padmavathi has filed a complaint before this authority in Form B on 01-07-2019.

Both the parties were informed vide this office letter No. OMB/B/G345 /2019/D-1306 dated 02-07-2019 regarding availability of provisions in Sub Regulation 1 of Regulation 20 of KERC (CGRF and Ombudsman) Regulations 2004 for settlement through conciliation and mediation and to appear before this authority on 18-07-2019. However, they have not availed the benefit of the said provision. The case was listed for hearing on 18-07-2019, 30-07-2019, 13-08-2019 and 28-08-2019.

In the parawise replies dated 12-07-2019 filed by the Respondent-1/AEE only the facts of the case have been narrated.

After careful and anxious consideration of the appeal memo filed by the Appellant/Complainant and the documents and submissions made by both the parties to this proceeding, the following points arise for consideration.

- a. Whether the Respondent-1/AEE was right in claiming the short claim bill with effect from 01-06-2015 to 31-03-2018.
- b. Whether the category under HT-2 C(ii) is to be considered up to 31-03-2017?

My findings to the above points are:

- a) In the Negative.
- b) In the Positive.

**Reasons:**

As both the points are interrelated, they are discussed together in the below para:

The Appellant/Complainant in her application dated 28-11-2011 to the Respondent-1/AEE for sanction of power has stated that power is

required to run a hospital. It is further mentioned in the application that power supply is required from 10-01-2012. As per the prevailing tariff order at that point of time all private hospitals and nursing homes were categorized under HT-2(B) Tariff. Accordingly, the Appellant/Complainant was sanctioned power supply under HT-2(B) Tariff. On 06-05-2013 KERC issued Tariff Order introducing 2 new categories of tariff namely HT-2C(i) and HT-2C(ii). Under HT-2C(i) all Government hospitals, hospitals run by charitable institutions, ESI Hospitals, Universities and Educational Institutions belonging to Government and Local Bodies, Aided Educational Institutions and hostels of all educational institutions were included. Under HT-2C(ii) all Hospitals and Educational Institutions other than those covered under HT-2C(i) were included. In this tariff order private hospitals and nursing homes were continued under HT-2(B) Tariff. Based on the correspondence from corporate office of BESCO and his Executive Engineer, the Respondent-1/AEE issued an Official Memorandum on 21-03-2014 to change the tariff of the Appellant/Complainant's installation N2HT103 from HT-2(B) to HT-2C(ii). In the next Tariff Order dated 12-05-2014 issued by KERC, private hospitals and nursing homes were removed from tariff schedule HT-2(B). Government hospitals and hospitals run by charitable institutions and ESI hospitals and universities, educational institutions belonging to Government, local bodies, aided institutions and hostels of all educational institutions continued under tariff schedule HT-2C(i) and all hospitals and educational institutions other than those covered under HT-2C(i) also continued under tariff schedule HT-2C(ii). On 20-02-2018 Respondent-1/AEE inspected the premises of the Appellant/Complainant and observed that activities like

laboratory, scanning, CT, MRI, X-Ray, investigations, consultation, physiotherapy, dialysis and dental clinic are being run in the premises. In the inspection report of the Respondent-1/AEE it was specifically recorded that there is no in-patients facility and admission in the premises of the Appellant/Complainant's installation. Hence it was opined by the Respondent-1/AEE that the installation is to be billed under HT-2(B) Tariff. In pursuance to the inspection report of the AEE dated 20-02-2018, a letter was issued to the Appellant/Complainant on 12-03-2018 stating that as electricity was being used to run a Diagnostic Centre, and not a hospital, they should have billed under HT-2(B) Tariff and not under HT-2(C) Tariff from 01-06-2015 to 01-03-2018 and hence for this period short claim of Rs. 4,71,708/- should be paid within 30 days.

It was only in the KERC Tariff Order dated 11-04-2017 that Diagnostic Centres were included in tariff schedule HT-2(B) for the first time. However, in this Tariff Order Government hospitals, hospitals run by Charitable Institutions and ESI hospitals continued under HT-2C(i) tariff and hospitals other than those covered under HT-2C(i) continued under HT-2C(ii) tariff.

Looking into the chronology of the categorization of hospitals under different tariff orders of KERC it is clear that for the first time Diagnostic Centres came to be categorized under HT-2(B) tariff. Immediately before this Tariff Order all hospitals whether Government, aided or private were included either in HT-2C(i) or HT-2C(ii). As there was no categorization with the nomenclature "Diagnostic Centres" the installation of the Appellant/Complainant with the name "Gayathri Diagnostics and Health Services", being health related came

to be categorized under HT-2C(ii). On 20-02-2018 when the Respondent-1/AEE inspected the premises of the Appellant/Complainant Tariff Order dated 11-04-2017 was in force. In this order “Diagnostic Centres” were categorized separately under HT-2(B) for the first time. The observation of the Respondent-1/AEE that the installation of the Appellant/Complainant has to be billed under HT-2(B) tariff is correct. However, making it applicable from 01-06-2015 is not correct. This is because at that point of time (i.e. 01-06-2015) there was no category by name “Diagnostic Centres” in the Tariff Order. Hence it can be concluded that the Appellant/Complainant’s installation is to be categorized under HT-2(B) tariff only with effect from 01-07-2018.

In view of the foregoing paras the following order:

**No. OMB/B/G-345/2019/D-1365**

**Dated 17/10/2019**

**O R D E R**

1. Appeal/Complaint is allowed. The Respondent-1/AEE to calculate and issue fresh short claim bill notice with effect from 01-04-2017 under HT-2(B) tariff schedule. From 01-06-2015 to 31-03-2017 the Appellant/Complainant’s installation should be considered under HT-2 C(ii) tariff category only.
2. The impugned order of CGRF, Bengaluru Urban District bearing No. 33/2018-19/689-91 dated 18-05-2019 is set aside.
3. The letter of Respondent-1/AEE asking the Appellant/Complainant to pay short claim bill for the period from 01-06-2015 to 01-03-2018 amounting to Rs. 4,71,708/- is also set aside.

Sd/-  
(S.S Pattanashetti)  
Electricity Ombudsman.

- 1) Smt. V. Padmavathi,  
W/o M Narasa Raju,  
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Next to Chord Road Hospital,  
Basaveshwarnagar,  
Bangalore – 560079.
- 5) PS to Hon'ble Chairman, KERC
- 6) PS to Hon'ble Member (M), KERC
- 7) PS to Hon'ble Member (R), KERC
- 8) PA to Secretary, KERC.
- 9) Chairperson of all CGRF's in the State.