

Before the Ombudsman, KERC, Bangalore
Present: Shaik Ahmed,
Ombudsman
Case No.OMB/M/G-18/2006/2154
Dated :09.02.2007

Appellant:

Shri K.Vishwanath,
K.S.Engineering Works,
Plot No.131, Auto Complex,
SHIMOGA

Respondents:

1. The Asst.Executive Engineer(Ele)
O & M City Sub-Division-1
SHIMOGA

2. The Consumer Grievance Redressal Forum,
MESCOM Corporate Office,
Paradigm Plaza, A.B.Shetty Circle,
MANGALORE-575001

This is an appeal filed by Shri K.Vishwanath, K.S.Engineering Works, Shimoga against the order passed by the CGRF, MESCOM, Mangalore on 16.09.2006 in file No.MESCOM/SADHU-2/06-07. This case is about refund of Security Deposit. The Appellant has surrendered his power connection bearing RR No.P 2145 and sought refund of Security Deposit which he had paid to the 1st Respondent at the time of getting the power connection. The 1st Respondent did not refund the Security Deposit of Rs.18,240/- even after a lapse of 571 days despite reminders to him. However, after a lapse of 571 days, the Security Deposit was partially refunded to the Appellant. As against the total deposit of Rs.18,240.00 an amount of Rs.15761/- was refunded after deducting the dues which the Appellant owed to the Licensee leaving a balance of Rs.1007/-.

Aggrieved by the inordinate delay on the part of the 1st Respondent to refund the Security Deposit, the Appellant had filed a petition before the 2nd Respondent seeking following relief:

- a) Refund of the balance of Security Deposit along with interest.
- b) A compensation at the rate of Rs.50/- per day as provided in KERC (Licensees' Standards of Performance) Regulations 2004 for the period of delay of 571 days.

The CGRF, MESCOM, after hearing both the parties, has come to the conclusion that there is an inordinate delay of 571 days on the part of the 1st Respondent to refund the Security Deposit and has ordered to refund the balance of the Security Deposit with interest at the bank rate (9%) for the entire period of delay. As regards claim of compensation by the Appellant for the delay of 571 days at the rate of Rs.50/- per day, the CGRF has held that payment of interest at bank rate for the delayed period is just and appropriate. Further, the CGRF has ordered to institute an inquiry against the officials who are responsible for the delay and to recover the loss incurred by the Licensee from them.

Aggrieved by the Order of the CGRF, MESCOM, the Appellant has preferred this appeal. He has requested to award the compensation as provided in KERC (Licensees' Standards of Performance) Regulations 2004. The Appellant was given a reasonable opportunity of hearing to enable him for placing additional evidence/records, if any, in support of his claim. Nevertheless, the Appellant did not appear despite a reasonable opportunity of hearing provided to him. He is, therefore, placed ex-parte.

I have gone through the records placed before me by both the parties. Item No.14 of Schedule-I to the KERC (Licensees' Standards of Performance) Regulations, 2004 provides for payment of Rs.50/- to the consumer for each day of delay for refunding the Security Deposits. In the instant case, there is an inordinate delay of 571 days to refund the Security Deposit and the compensation at the rate of Rs.50/- per day works out to Rs.28,550/- which is almost 200% of the actual claim. The spirit and intent of the above Regulations is not to award a compensation of such magnitude. Further, the Appellant has not alleged that the delay on the part of the 1st Respondent had any ulterior motive or malafide intentions. This could be a case of carelessness. Therefore, I feel that the Order of the CGRF for payment of interest at bank rate for the entire period of delay is reasonable and appropriate.

The order of the CGRF to have an inquiry instituted against the officials responsible for the delay and to recover the losses from them is incorrect for KERC (Consumer Grievance Redressal Forum and Ombudsman) Regulations, 2004 do not empower CGRF to order for an inquiry or for recovery of the loss from the officials of the Licensee. It is for the Licensee to take appropriate action to institute an inquiry against the person/s responsible for the delay/loss etc.

ORDER

In the circumstances, I feel that the relief granted by the learned CGRF, MESCOM for payment of interest at bank rate for the entire period of delay is just and appropriate. The prayer of the Appellant for payment of a compensation at the rate of Rs.50/- per day for 571 days cannot be considered as he has got appropriate relief from the CGRF for the inordinate delay. **Hence the appeal is rejected.**

The order of the CGRF, MESCOM directing the Licensee to institute an inquiry against the concerned official and to recover the loss from them is set aside as CGRF has no powers to order for an inquiry or for recovery of the amount from the officials of the Licensee.

(Shaik Ahmed)
Ombudsman

1. Shri K.Vishwanth, K.S.Engineering Works, Plot No.131, Auto Complex, Shimoga.
2. The Asst.Executive Engineer(Ele)O & M City Sub-Division-1,Shimoga
3. The Consumer Grievance Redressal Forum, MESCOM Corporate Office, Paradigm Plaza, A.B.Shetty Circle, Mangalore-575001
4. The Managing Director, MESCOM Corporate Office, Paradigm Plaza, A.B.Shetty Circle, Mangalore-575001.
5. The General Manager, (Tech/Admn & HRD), MESCOM Corporate Office, Paradigm Place, A.B.Shetty Circle, Mangalore-575001.
6. The Executive Engineer(Elec), O & M Division, MESCOM, Shimoga.
- 7.PS to Hon.Chairman / 8.PS to Hon.Member-I / 9.PS to Hon.Member-Tech
10. Consultant(Consumer Advocacy
11. Chairpersons of all CGRF for information.

