



Before the Electricity Ombudsman
9/2, 6th Floor, Mahalakshmi Chambers, M.G.Road,
Bangalore

Present: B.R.Jayaramaraje Urs, IAS (Retd.)

Electricity Ombudsman

Case No.OMB/M/G-135/2012/126

Dated 21.11.2012

BETWEEN:

Shri K.M.Ibrahim,
 Deepak Constructions,
 Nekkare Kadu,
 Vittala-574243
 Dakshina Kannada District
 (by Authorised Representative Sri Sanath Kumar Shetty, Advocate)

Appellant

Vs

1. Assistant Executive Engineer (Ele),
 O & M Sub Division,
 MESCOM
 Vittala,
 Dakshina Kannada District

2. Consumer Grievance Redressal Forum, (CGRF)
 MESCOM Corporate Office,
 Padadigm Plaza, A.B.Shetty Circle

Mangalore

.. Respondents

1. This is an appeal under Regulation 21.02 of KERC (Consumer Grievance Redressal Forum & Ombudsman) Regulations, 2004 against the order passed by the Consumer Grievance Redressal Forum, MESCOM, Mangalore (hereinafter referred to as the 2nd Respondent) vide case No. ಮಂವಿಸಕಂ/ಗ್ರಾಕಂ.ಕೊ.ನಿ.ವೇ/06/11-12 ದಿನಾಂಕ 08.05.2012 in respect of the Appellant's grievance relating to short claims made by the Assistant

Executive Engineer (EI), O & M Sub-Division, MESCOM, Vittala (hereinafter referred to as the 1st Respondent) for Rs 3,45,578/- and the refusal of the 2nd Respondent to issue any directions to the 1st Respondent not to collect the short claims. Aggrieved by the 2nd Respondent's Order, the Appellant has submitted his case as under:

2. The Appellant is a Registered Electricity Consumer of MESCOM with a sanctioned load of 35 H.P bearing R.R.No VP-43. The power was sanctioned on 28.01.1975 to run a jelly crusher. The Appellant would get an average bill of Rs.3,000/- per month and also there was no complaint regarding the functioning of the meter. All of a sudden, the Assistant Electrical Engineer(EI), MESCOM, Vittala Sub-Division, Dakshina Kannada District raised a demand for Rs.3,45,578/- on the ground of non-application of multiplier K-15 and, instead of applying Multiplier K.15, the Computer Operator had applied K-1 resulting in non-billing for 78,980 units. The Appellant is penalised for the wrong committed by the Computer Operator and, as per the assessment, the 1st Respondent has made claims exceeding 3 years and, hence, he is not liable to pay such amount as it suffered from limitation. Further, the Appellant has been forced to deposit 50% of the disputed amount for preferring appeal with the Appellate Authority, though the case had been remanded by the Hon'ble High Court. Hence, the Appellant prayed this Authority to set aside the order passed by the 2nd Respondent and also direct the 1st Respondent not to collect Rs.3,45,578/-.

3. The 1st Respondent's response comments were called vide letter No. OMB/M/G-135/2012/1031 dated 19.06.2012 and the 1st respondent has furnished his comments vide letter No. ಪೀಎ/« I ಳ್ಲ ಳ್ಲ/» (PIA)/415(a) ಎ ಳ್ಲ ಳ್ಲ ಪೀಎ/« I ಳ್ಲ ಳ್ಲ/416(b) ಳ್ಲ ಳ್ಲ 26.6.2012.

4. In his comments, the 1st Respondent has denied that the Appellant had been getting monthly bill of Rs. 3,000/- prior to the inspection and claimed that if the Appellant had been applied K-15 Multiplier, he would have had to pay an average monthly bill of Rs.8,000/- and also submitted that the contention of the Appellant that the Licensee cannot make supplementary claims for more than 3 years is not as

per law and, as per Regulation 29.03 of Conditions of Supply of Electricity of Distribution Licensees in the State of Karnataka, the claims can be made without any time limits. Further, the 1st Respondent has countered the arguments of the Appellant that the Licensee has illegally collected 50% of the disputed amount for filing an appeal before the Appellate Authority and as per Regulation 44.02 of Conditions of Supply of Electricity of Distribution Licensees in the State of Karnataka, the Appellant is required to deposit 50% of the disputed amount and, hence, there is no substance in the submission made by the Appellant and, hence, prayed this Authority to dismiss the appeal.

5. The matter was taken up for hearing on 19.10.2012. On behalf of the Appellant, Advocate, Shri Rajashekar appeared and put forth his arguments and, on behalf of the 1st Respondent, the Assistant Executive Engineer (EI) O & M Sub-Division, Vittala, Shri Yeshavant appeared and advanced his arguments. Arguments from both sides got concluded on 08.11.2012.

6. The advocate for the Appellant reiterated the submissions made in his appeal memo.

7. The Assistant Executive Engineer(EI), O & M Sub-division, Vittala submitted that 35 HP power had been sanctioned on 28.01.1975 and, in 2007, it had been noticed that the meter had not been functioning from 01.11.2006 to 01.10.2007 and, hence, the meter had been treated as MNR (Meter not reading). MESCOM replaced the meter on 19.07.2007. The L.T Rating Division calibrated the installation on 18.04.2001 and, in their report, they had mentioned Multiplier as K-15 and, when the office cross-checked the report of L.T Rating Division with the Consumer's docket, it revealed that the Meter Reader, though had taken the reading correctly, the office had failed to enter the Multiplier as K-15 and, instead, it entered the Multiplier as K-1. On account of this, there had been a difference in the number of units consumed. Down-loaded data should have been multiplied by K-15, but the Computer Operator had failed to apply the correct multiplier and, instead, he had taken the multiplier as K-1 which had resulted in not billing 78,980 units. During the

verification, it had been found that the actual consumption had not been taken while billing. Actual billing should have been done for 84,339 units and, on account of non-application of multiplier, the billing had been done only for 5,359 Units and, hence, a difference of 78,980 units.

8. Further, the Assistant Executive Engineer (El) added that the differential units had been pointed out on 24.05.2011 and, from the date of pointing out this anomaly, arrears had been shown continuously in the energy bills of the Appellant and, hence, the contention that the Licensee could not claim the arrears beyond 3 years did not stand the scrutiny of the law. Hence, he prayed this Authority to dismiss the appeal.

9. Both parties were informed vide letter No.OMB/M/G-135/2012/119 dated 03.10.2012 regarding availability of Sub-Regulation 1 of Regulation 20 of KERC (Consumer Grievance Redressal Forum and Ombudsman) Regulations, 2004 which provides for settlement by agreement through conciliation and mediation. However, both parties have not availed this opportunity. Hence, I am proceeding to pass an order in this matter.

10. Having regard to the contending positions of the parties, the issue that emerges for our consideration is:

11. Whether the short claims made by the 1st Respondent is in accordance with the law?

12. To answer this question, we will have to examine the arguments made by the 1st Respondent. The 1st Respondent, in his arguments, has submitted that the L.T Rating Division conducted a Technical Audit of the subject installation on 18.04.2011 and, after inspection, sent a report to the O & M Sub-Division and, in the report, they have mentioned the meter multiplier of the subject installation as K.15, and during verification of the consumer's docket, the office found out that though the Metre Reader had reported that the metre multiplier as K-15, the Computer Operator in the office had failed to enter the multiplier as K-15 and, instead, had entered

multiplier as K-1 and, if the Computer Operator had entered the multiplier as K-15 , the computer would have given the multiplied consumption figures of the installation and, on account of the non-application of the K-15 multiplier, the computer had given an output of just 5,359 units instead of 84,339 units and, thus, 78,980 units was not shown and not billed.

13. Further, the 1st Respondent has clarified that, after rectification of the bills, the arrears amounting to Rs.3,45,578/- had been continuously shown in the energy bills issued to the Appellant. From this, it becomes clear that the Licensee, during verification of the consumer's account, has noticed erroneous billing on account of the non-application of the Multiplier as K-15 in respect of the subject installation and, hence, issued a revised bill for Rs.3,45,578/-. This is found to be in accordance with Regulation 29.08(a) of Conditions of Supply of Electricity of Distribution Licensees in the State of Karnataka which states **"At any time during verification of the consumer's account, if any short claims caused by erroneous billing are noticed, the consumer is liable to pay the difference. The Licensee shall follow the procedure laid down under Clause 29.03 in such cases for preferring the supplemental claims. However, the Licensee shall not recover any arrears after a period of 2 years from the date when such sum became first due, unless such sum has been shown continuously in the bill as recoverable as arrears of the charges of electricity"**. Thus, the regulation provides for recovery of bills in case of erroneous billing and, in the present case, the Licensee has taken corrective steps as per the L.T. Rating Division's report and issued a revised bill for Rs.3,45,578/- and, further, it is confirmed by the 1st Respondent that these arrears have been shown in the energy bills continuously and, thus, the claims found to have not suffered from any time limitation. Hence, no irregularity is found to have been committed by the Licensee necessitating this Authority to intervene in the matter.

14. However, it is noticed that when the Appellant preferred to challenge the short claims, the Licensee is found to have not acted in accordance with law and, instead of directing the Appellant to approach the 2nd Respondent, it has usurped

the powers of the 2nd Respondent and directed the Appellant to approach the Appellate Authority under Regulation 44 of Conditions of Supply of Electricity of Distribution Licensees in the State of Karnataka which deals with theft of power. Prima facie, this is not a case of theft and the Appellant Authority lacks jurisdiction. In spite of lack of jurisdiction, the Licensee has forced the Appellant to approach the Appellate Authority under Regulation 44 of Conditions of Supply of Electricity of Distribution Licensees in the State of Karnataka and forced the Appellant to deposit 50% of the disputed amount i.e., Rs.1,72,789/- before the Appellant filing the appeal before the Appellate Authority which is illegal and, hence, the Licensee is liable to pay interest @ 2% per month from 12.12.2011 for Rs.1,72,789/- as per Regulation 29.08 of Conditions of Supply of Electricity of Distribution Licensees in the State of Karnataka which comes to Rs.35,424/-. The Licensee has to adjust the deposited amount + the interest mentioned above against the future pending energy bills of the Appellant. Hence, the following order:

ORDER

15. For the foregoing reasons, the appeal is rejected and rejection is subject to the Licensee paying interest on the amount collected from the Appellant as deposit before filing appeal before the Appellate Authority under Regulation 44 of Conditions of Supply of Electricity of Distribution Licensees in the State of Karnataka.



(B.R. Jayaramaraje Urs)
Electricity Ombudsman

1. Shri K.M.Ibrahim, Deepak Constructions, Nekkare Kadu, Vittala-574243, Dakshina Kannada District (Represented by Authorised Representative, Shri Sanath Kumar Shetty, Advocate)
2. Assistant Executive Engineer(EI), O & M Sub-Division, MESCOM, Vittala, Dakshina Kannada District.
3. Consumer Grievance Redressal Forum, MESCOM Corporate Office, Paradigm Plaza, A.B.Shetty Circle, Mangalore.
4. Managing Directors of all ESCOMs.

5. PS to Hon. Chairman, KERC
6. PS to Hon. Member (H), KERC
7. PS to Hon. Member (S), KERC
8. PS to Secretary, KERC