



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/B/G-127/2012/86

Dated 20.07.2012

Shri L.S.Ramalingaiah,
 No.1781, B.M.Tower,
 Opp.Family Mart,
 J.P.Nagar 6th Phase,

BANGALORE

**(Represented by Sri M.A.Delvi, Advocate -
 Authorised Representative)**

.. Appellant

Vs

1. The Asst. Executive Engineer(EI)
 S-6 Sub Division, BESCO,
 J.P.Nagar,

BANGALORE-560078

2. The Chairperson,
 Consumer Grievance Redressal Forum,
 B.E.S.C.O.M. Corporate Office,
 K.R.Circle,

BANGALORE-560001

.. Respondents

1. This is an appeal under the provisions of KERC(Consumer Grievance Redressal Forum & Ombudsman) Regulations, 2004 against the order passed by the Consumer Grievance Redressal Forum, BESCO, Bangalore (hereinafter referred to as the 2nd Respondent) vide No.CGRF/76/2011/484-489 dated 07.12.2011 in respect

of the Appellant's grievance relating to short claims made by the Assistant Executive Engineer (EI) S-6 Sub-Division, BESCO (hereinafter referred to as the 1st Respondent) for Rs.1,79,817/- and refusal of the 2nd Respondent to issue any directions to the 1st Respondent to refund the amount. Aggrieved by the decision of the 2nd Respondent, the Appellant has submitted his case as under:

2. The Appellant is an electrical consumer of BESCO under H.T.2(b) tariff category. Initially, 30 K.V.A power and additionally 40 K.V.A power was sanctioned in the year 2004 and 2006 respectively. The installation bearing R.R No S6 HT-77 stands in the name of the Appellant. The installation was inspected by the Assistant Executive Engineer, O & M Sub-Division, Assistant Executive Engineer, HT Rating, M.T.Division along with Deputy Electrical Inspector on 15.9.2009 and observed that ratios of C.Ts stood at 16/5 (Bad CTs) with meter constant at 320. After the inspection, bad CTs were replaced by good CTs. Based on this, the Assistant Executive Engineer(EI) S-6 Sub-Division, BESCO raised a short claim for Rs.1,79,817/- for the period between March 2009 to September 2009 on 20.10.2009. Further, aggrieved by the decisions of the 1st Respondent, the Appellant filed a complaint challenging the short claims before the 2nd Respondent and the 2nd Respondent in its order directed the 1st Respondent to restrict the claims to 6 months instead of 7 months.

3. Further, it is the responsibility of the 1st Respondent to maintain the accuracy of the meter and this part of responsibility cannot be transferred to the consumer and H.T installation reading has to be taken by the Assistant Executive Engineer. Any fluctuation in the recording of the consumption will attract the attention of the Assistant Executive Engineer (EI) and, hence, he was duty-bound to ascertain the reasons for the fall in the consumption. In the instant case, the Assistant Executive Engineer along with the H.T Rating staff conducted an inspection and, from the inspection, concluded that meter had recorded slowly. Current Transformers are provided by the Licensee and maintenance of the CTs is also the responsibility of the Licensee and if the Licensee has failed to take care of the CTs, then the responsibility for revenue losses will fall on the Assistant Executive Engineer (EI).

The Licensee has slept over the matter for 9 months and it is not a case of slow recording, but it is a case of negligence. Hence, The Advocate for the Appellant prayed this Authority to set aside the order of the 2nd Respondent and to direct the 1st Respondent not to collect the short claim amount.

4. The 1st Respondent's comments were called vide No OMB/B/G-127/2012/169 dated 30.01.2012 and the 1st Respondent has furnished his comments vide letter vide No AEE(E)/S6/AAO/684 dated 02.05.2012. In his comments, he has confirmed inspection conducted by H.T Rating Division along with the Deputy Electrical Inspector and also their findings of CTs malfunctioning and resultant slow recording of meter by 56.64% and raising of short claims for Rs.1,79,817/-. The Assistant Executive Engineer prayed this Authority to confirm the order of the 2nd Respondent.

5. The matter was taken up for hearing on 20.6.2012. Shri M.A.Delvi, Authorised Representative of the Appellant advanced arguments on behalf of the Appellant. On behalf of the 1st Respondent, Assistant Executive Engineer(EI), S-6 Sub-Division BESCO put forth his arguments. Both parties reiterated the submissions made in the appeal memo and comments respectively. The arguments got concluded on 09.07.2012.

6. Both parties were informed vide letter No.OMB/B/G-127/2011/903 dated 04.06.2012 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.

7. Having regard to the contending position of the parties, issues that emerge for our consideration are:

8. *Whether the Appellant has disputed the accuracy of the meter in the instant case?*

9. Whether the short claims made by the 1st Respondent conforms to Clause 27.00 of Conditions of Supply of Electricity of Distribution Licensees in the State of Karnataka?

10. From the records made available to this Authority, it is seen that the subject installation was first inspected by the H.T Rating Division and 15 days later the installation again inspected by the Deputy Electrical Inspector on 24.9.2011. The H.T Rating Division, during their periodical inspection, observed slow recording of the meter and conveyed this to the Assistant Executive Engineer (EI) O&M Sub-Division and also sought if the CTs could be replaced. In response to this, the Assistant Executive Engineer (EI) conveyed that he had contacted the Appellant and explained the need for third party inspection and the Appellant had agreed for such an inspection and, hence, he had referred the case to 3rd Party Agency for inspection and report. As per the version of the Assistant Executive Engineer (EI), O&M Sub-Division, CTs were subjected to Ratio Test and the tests revealed CTs (Bad CTs) standing at 16/5 and meter constant at 320 and report concluded that on account of malfunctioning of the CTs, the subject meter had recorded slow by 56.64% and, hence, short claims should be raised for a period of 7 months. However, this decision was challenged before the 2nd Respondent and the 2nd Respondent in its order has restricted the short claims to 6 months instead of 7 months.

11. From the admissions made by the 1st Respondent, it is clear that the Appellant had not disputed the accuracy of the meter and it was the Assistant Executive Engineer (EI) S-6 Sub-Division who prompted the Appellant for 3rd party inspection and even advised the Appellant to pay the fee for 3rd party inspection. Accordingly, the Appellant, at the behest of the 1st Respondent, appears to have paid the fees for 3rd party inspection. From the periodical test conducted by the H.T Rating Division 15 days prior to the 3rd Party inspection, it revealed that the CTs were not functioning properly and consequently it resulted in slow recording of the meter.

12. In the present case, during periodical inspection, H.T Rating Sub-Division observed malfunctioning of CTs and this was also reported to the 1st Respondent. Instead of acting on the H.T Rating Sub-Division's report, the Assistant Executive Engineer, O&M Sub-Division, referred the case to the Third Party Agency for inspection. Under Clause 27.00 of Conditions of Supply of Electricity of Distribution Licensees in the State of Karnataka "***In the event the Consumer disputes the accuracy of the meter, he shall give notice to the Licensee. The Licensee shall refer the meter for inspection / testing of the meter to a Third Party Agency***". In the present case, the consumer has not disputed the accuracy of the meter nor has he given any notice to the Licensee. Strangely, the 1st Respondent has referred the meter for 3rd Party inspection Suo Motto which is beyond his powers. Such a reference has no validity in the eyes of law. However, in the instant case, the Appellant has not objected to 3rd Party Inspection and, on the other hand, he has paid the testing fees. Hence, it has to be inferred that the Appellant has accepted the 3rd Party Inspection and, since he has consented for 3rd Party Inspection, findings of such inspection is binding on both the parties. From the third party inspection, it is revealed that due to malfunctioning of the C.Ts, meter recorded slowly and, in terms of percentage, came to 56.64% and, hence, it can be construed that this is a case of slow recording of meter coming under Clause 27.03 (i) of Conditions of Supply of Electricity of Distribution Licensees in the State of Karnataka which reads "***when the meter is found to be slow beyond the permissible limits, the consumer shall be liable to pay the difference at normal rates based on the percentage error, for a period not more than 6 months prior to the test.....***". The Assistant Executive Engineer further submitted that to claim the differential amount he had taken average consumption of 3 months on the basis of functioning meter previous to 6 months preceding the inspection and disputed period and, in the present case, previous to 6 months preceding the inspection was under dispute as there was a litigation pending before the Courts. If 3 months average consumption previous to disputed period was taken, then the average consumption would be as detailed below:

Consumption of units per month	:	5997 units
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Consumption for six months (5997X6) :	35982 units
Less: Units already claimed :	<u>13674 units</u>
	22,308 units
Cost at Rs.4.85 per unit for 22,308 units :	Rs.1,08,194/-
Add: Electricity Tax :	<u>Rs. 5,410/-</u>
Total	Rs.1,13,604/-

13. The Assistant Executive Engineer (EI) has raised a short claim for Rs.1,79,817/-. In the light of this submission, the 1st Respondent has to raise a demand for Rs.1,13,604/- only against the Appellant. Hence, the following order:

ORDER

14. For the foregoing reasons, the appeal is partly allowed in terms of the following:

15. The 1st Respondent to raise ***a demand for Rs.1,13,604/- only against the Appellant.***



(B.R.Jayaramaraje Urs)
Electricity Ombudsman

1. Sri L.S.Ramalingaiah, No.1781, B.M.Tower, Opp.Family Mart, J.P.Nagar 6th Phase, Bangalore (represented by his Advocate, Sri M.A.Delvi, Bangalore).
2. Consumer Grievance Redressal Forum, BESCOM Corporate Office, K.R.Circle, Bangalore.
- 3.The Asst.Executive Engineer (Ele), S-6 Sub Division, BESCOM, J.P.Nagar, Bangalore - 560078
4. Managing Directors of 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
9. OCA