



Before the Electricity Ombudsman
9/2, 6th Floor, Mahalakshmi Chambers,
M.G.Road,
Bangalore-560001
Present: B.R.Jayaramaraje Urs, IAS (Retd.)
Electricity Ombudsman
Case No.OMB/B/G-161/2013/304
Dated 24.10.2013

Shri Ramasubba Reddy,
 Maraganahalli Village,
 Chikkaballapur District,
 (Represented by Shri M.Subramani, Advocate)

.. **Appellant**

Vs

1. The Asst. Executive Engineer(EI)
 O & M City Sub Division,
 BESCOM,
 CHIKKABALLAPURA

2. The Chairperson,
 Consumer Grievance Redressal Forum,
 B.E.S.C.O.M.
 Chikkaballapura

.. **Respondents**

1. This is an appeal under Clause 21.02 of KERC (consumer grievance Redressal Forum & Ombudsman) Regulations, 2004 against the order passed by the Consumer Grievance Redressal Forum, BESCOM, Bangalore (hereinafter referred to as the 2nd Respondent) vide case No. CGRF/85/2011/2467-72 dated 25.05.2013 in

respect of short claim against the Appellant by the 1st Respondent on account of exceeding maximum load. The 2nd Respondent has declined to issue any directions to the Assistant Executive Engineer(EI), O & M City Sub Division, BESCO, Chikkaballapur (hereinafter referred to as the 1st Respondent) not to recover the short claims. Aggrieved by the order passed by the 2nd Respondent, the Appellant has submitted his case as under:

2. The Appellant is a registered electricity consumer Of BESCO. The installation bearing R.R No CBUHT-25 stands in the name of the Appellant. The installation was serviced on 15.10.2009 for a sanctioned load of 220 KVA under HT2 (a) category. The Appellant availed power for running a stone crushing unit. The Appellant was regularly paying the electricity charges. On 14.06.2010, the installation was inspected by the H.T Rating Division and, during inspection, they observed excess load over sanctioned load and, hence, insisted the Appellant to pay a sum of Rs.2,67,752/-. This amount was paid by the Appellant. After paying this amount, the Appellant requested the 1st Respondent, through his letter dated 28.08.2010, to refund Rs.2,67,752/- on the grounds of improper functioning of the meter and also requested to install a parallel meter. A parallel meter was installed and, after installation of the parallel meter, it was noticed that both the existing and parallel meter showed different readings. Further investigation by the 1st Respondent showed abnormal readings due to wrong wiring connection at the time of fixing the parallel meter. Later, the 1st Respondent informed the Appellant that the defect had been rectified and both the meters were recording normally. During this period, on account of wrong wiring connection, the meter showed excess load. This was admitted by the 1st Respondent and even the 2nd Respondent, in its impugned order, has observed that ***"there was abnormal variation in consumption for the period from November 2010 to January 2011 due to wrong connection. However, the same has been rectified by the 1st Respondent."*** Further, the 2nd Respondent, in its impugned order, has come to the conclusion that the matter pertained to Power Factor and the Appellant failed to maintain an average Power Factor of not less than 0.90 lag and, hence, levying of

penalty was justified. In cases of Power Factor lag, the 1st respondent is required to follow procedure laid down under Clause 22.02 (b) of Conditions of Supply of Electricity of Distribution Licensees in the State of Karnataka and, in the present case, such a procedure has not been followed by the 1st Respondent. The Appellant has, at the instance of the 1st Respondent, installed a transformer and the manufacturer of the transformer has clarified that there was no defect in the transformer. In spite of this, the 1st Respondent has made a short claim for Rs.8,39,686 without assigning any reasons and, hence, prayed this Authority to set aside the impugned order and to quash the short claims made by the 1st Respondent.

3. The 1st Respondent's comments were called vide letter No OMB/B/G-161/2013/232 dated 09.07.2013. The 1st Respondent filed his statement of objections vide his letter No AAE(EI)/AET/CSD/CBP/2013-14/1144 dated 20.08.2013.

4. The 1st Respondent, in his statement of objections, submitted that the Appellant had been sanctioned 220 KVA power for running a stone crushing unit and the installation had been serviced on 15.10.2009. Such being the case, on 14.06.2010, the H.T Rating Division conducted an inspection and observed that the meter recording had been proper and error had been within the prescribed limits and further pointed out there had been no meter dispute. In the same report, HT Rating Division observed that Power Factor of the installation had been less than 0.90 and stood at 0.462. The H.T Rating Division during inspection had drawn the mahazar in the presence of the Appellant and obtained his signature. As per Clause 27 of the Conditions of Supply of Electricity of Distribution Licensees in the State of Karnataka ***"in the event of the consumer disputes the accuracy of the meter, he shall give notice to the Licensee. The licensee shall refer the matter for inspection of the meter to a Third Party Agency"***. The Appellant, in his appeal memo, prayed for quashing the demand for not following Clause 27.00 of the Conditions of Supply of Electricity of Distribution Licensees in the State of Karnataka, but the Appellant had not disputed the correctness of the meter.

Hence, the question of referring the meter to 3rd party agency did not arise and, therefore, the appeal should be dismissed.

5. During the hearing, both the Advocate for the Appellant and the 1st Respondent reiterated the submissions made in the appeal memo and the statement of objections respectively

6. Both parties were informed vide letter No.OMB/B/G-164/2013/271 dated 30.08.2013 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 positions of the parties, the issue that arises for our consideration is:


a. Whether levy of P.F Surcharge was challenged before the 2nd Respondent and if not whether the impugned orders confirming the P.F Surcharge is valid in the eyes of law?

8. During the hearing, the 1st Respondent made it clear that the Appellant was not in arrears of P.F Surcharge and the demand related to excess load over the sanctioned load. He further clarified that the Appellant was due of Rs.5,10,680/- and not Rs.7,69,893/- as mentioned in the demand and this dues related to excess load over the sanctioned load. Further, the 2nd Respondent has observed in its order that ***"The energy meter and the transformer installed in the premises is in good condition and due to the inductive load within the premises there is lag in power factor since the nature of the installation happens to be stone crusher which is drawing inductive current more which resulted in billing maximum demand more than the sanctioned load"***. This observation conveys that excess demand recorded because of inductive load within the premises

and this is due to lag in the power factor. Thus the 2nd Respondent appears to be not clear whether the excess demand recorded is because of Power Factor lag and lag in Power Factor led to excess load or there was also excess load per se regardless of Power Factor lag. Further, the Advocate for the Appellant, in his arguments, contended that the Appellant is not liable to pay twice the regular tariff under Clause 42.03 of the Conditions of Supply of Electricity of Distribution Licensees in the State of Karnataka for the alleged use of excess load as the excess load recorded on account of interchange of wiring connection which is admitted by the 1st Respondent etc. If the issue relates to excess demand over the sanctioned demand, whether 2nd Respondent gets jurisdiction to deal with such issues has not been examined by 2nd Respondent. If it is a case of excess load over the sanctioned load, then the matter will have to be dealt under Clause 42.03 of the Conditions of Supply of Electricity of Distribution Licensees in the State of Karnataka by an Appellate Authority under Clause 44 of the Conditions of Supply of Electricity of Distribution Licensees in the State of Karnataka. None of these issues appear to have been considered by the 2nd Respondent before passing the impugned order. In the light of this back ground, it is considered necessary to remand the case to 2nd Respondent to re-examine the complaint in the light of the above observations. Hence, the following order:

ORDER

9. For the foregoing reasons, the case is remanded to the 2nd Respondent for fresh hearing and disposal in the light of the above observations.


(B.R. Jayaramaraje Urs)
Electricity Ombudsman

1. Shri Ramasubba Reddy, Maragana Halli Village, Chikkaballapur District
(Represented by Shri M. Subramani, Advocate – Authorised Representative)

2. Consumer Grievance Redressal Forum, BESCO, Chikkaballapur.
3. The Asst.Executive Engineer (Ele), O & M Sub Division, BESCO, Chikkaballapur.
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