**COURT OF THE LOK PAL (OMBUDSMAN),**

**ELECTRICITY, PUNJAB,**

**PLOT NO.A-2, INDUSTRIAL AREA, PHASE-1,**

**S.A.S. NAGAR (MOHALI).**

**APPEAL NO.77/2018**

**Date of Registration : 31.12.2018**

**Date of Hearing : 14.03.2019**

**Date of Order : 19.03.2019**

**Before:**

 **Er. Virinder Singh, Lok Pal (Ombudsman) Electricity**

**In the Matter of :**

 Sheela Devi,

Wife of Late S. Surjit Singh,

2768, Baba Gajja Jain Colony, Moti Nagar,

Block 3D, Ludhiana.

 ...Petitioner

 Versus

 Senior Executive Engineer,

DS CMC Division (Special),

PSPCL, Ludhiana.

 ...Respondent

**Present For:**

Petitioner : Shri Gurcharan Singh,

Petitioner’s Representative (PR).

Respondent : Er. Sukhbir Singh,

Senior Executive Engineer,

DS, CMC Division (Special),

PSPCL, Ludhiana.

Before me for consideration is an Appeal preferred by the Petitioner against the order dated 30.11.2018 in Case No. CGL-018 of 2018 of the Consumers Grievances Redressal Forum (Forum), Ludhiana deciding as under:

*“The amount of “Rs. 54,609/- charged to the Petitioner on MMC basis, is recoverable.”*

**2. Facts of the Case:**

 The relevant facts of the case are that:

1. A Small Power (SP) Category connection with sanctioned load of 19.850 kW was released to the Petitioner vide Device Installation No. 100002792225 dated 04.11.2016, effected on 15.11.2016.
2. The Petitioner’s first bill was issued on 29.03.2017 with reading of 1 kVAh unit and nil energy consumption for the period from 15.11.2016 to 28.02.2017 for Rs. 13,152/- (current charges Rs. 12,930/- plus surcharge of Rs. 222/-). The Petitioner did not deposit the said bill.

 **(iii)** Subsequently, the bills continued to be issued on Monthly Minimum Charges basis upto 03.04.2018. The details of bills issued were as under:

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| S.No. | Date of issue | Reading dates | Units | Current amount | Arrear amount including surcharge, interest and adjustmentin INR | Total amount after roundingin INR | Meter Status |
| 1. | 29.03.2017 | 15.11.2016 to 28.02.2017 | 1 | 11,117/- | 1,812/- | 12,930/- | 0 |
| 2. | 17.05.2017 | 28.02.2017 to 06.05.2017 | 0 | 7,025/- | 12,010/- | 19,040/- | 0 |
| 3. | 16.06.2017 | 06.05.017 to 05.06.2017 | 0 | 3,143/- | 19,183/- | 22,330/- | 0 |
| 4. | 17.07.2017 | 05.06.2017 to 05.07.2017 | 0 | 3,142/- | 22,793/- | 25,940/- | 0 |
| 5. | 18.08.2017 | 05.07.2017 to 07.08.2017 | 0 | 3,141/- | 26,440/- | 29,580/- | 0 |
| 6. | 20.09.2017 | 07.08.017 to 05.09.2017 | 0 | 3,147/- | 30,028/- | 33,180/- | 0 |
| 7. | 23.10.2017 | 05.09.2017 to 07.10.2017 | 0 | 31,131/- | 33,719/- | 36,860/- | 0 |
| 8. | 17.11.2017 | 07.10.2017 to 07.11.2017 | 0 | 3,146/- | 37,363/- | 40,509/- | 0 |
| 9. | 18.12.2017 | 07.11.2017 to 06.12.2017 | 0 | 3,445/- | 41,777/- | 45,220/- | 0 |
| 10. | 23.01.2018 | 06.12.2017 to 08.01.2018 | 0 | 3,238/- | 47,207/- | 50,450/- | 0 |
| 11. | 21.02.2018 | 08.01.2018 to 08.02.2018  | 0 | 1/- | 51,457/- | 51,460/- | 0 |
| 12. | 03.04.2018 | 03.03.2018 to 02.04.2018 | 0 | 5/- | 53,884/- | 53,890/- | 0 |
| 13. | 03.04.2018 | 02.04.2018 to 03.04.2018  | 0 | -1 | 54,610/- | 54,609/- | 0 |

1. Due to non-deposit of any of the said bills, the connection of the Petitioner was disconnected vide Disconnection Order No. 100005677199 dated 03.04.2018 whereafter the removed Energy Meter was got checked on 21.08.2018 from the M.E. Laboratory, which reported nil energy consumption during the period of installation to disconnection of the Petitioner’s connection.
2. Aggrieved with the bill, issued on 03.04.2018, for the period from 02.04.2018 to 03.04.2018 for Rs.54,609/-, the Petitioner filed Petition dated 02.11.2018 in the CGRF, Ludhiana, who, after hearing passed the order dated 30.11.12.2018 (Reference:Page-2, Para 1) and held that the amount charged to the Petitioner by the Respondent – PSPCL was justified and recoverable.
3. Not satisfied with the decision of the Forum, the Petitioner preferred an Appeal in this Court and requested to compensate it for the loss suffered by way of demand raised, due to not grant of electricity supply, by recovering the same from salary of the delinquent officer/official.

**3. Submissions made by the Petitioner and the Respondent:**

Before undertaking analysis of the case, it is necessary to go through written submissions made by the Petitioner and reply of the Respondent as well as oral submissions made by the Representatives of the Petitioner and the Respondent along with material brought on record by both the sides.

1. **Submissions of the Petitioner**:

 The Petitioner made the following submissions for consideration of this Court:

1. The Petitioner applied for a new Small Power (SP) Category connection with load of 19.850 kW on 26.04.2016 in the name of Smt. Sheila Devi wife of Late Shri Surjit Singh. Though, an Energy Meter was installed at its premises on 15.11.2016, the connection was not energised. As the Power Cable was not connected to the load and Power Supply was not given to the connection. The Energy Meter showed the same reading at the time of disconnection on 03.04.2018 as was at the time of installation on 15.11.2016.
2. No energy bill was issued to the Petitioner relating to the said connection during the period from 11/2016 to 03/2018. However, the Petitioner received an energy bill in the month of 04/2018 for Rs. 54,609/-. As the Petitioner did not pay this bill, its connection was disconnected on 03.04.2018. On inquiry from the office of the Respondent, the Petitioner was told that the bill had been prepared on the basis of Monthly Minimum Charges (MMC) since the release of connection on 15.11.2016.
3. Before the release of the connection, the Respondent – PSPCL wrote letters to the Petitioner and demanded the site for the installation of the Distribution Transformer. Simultaneously, the Respondent sent another letter to the Petitioner, which was not delivered to the Petitioner. Neither of these letters was bearing any Memo No. and date nor signed by any officer.
4. The Energy Meter was not sealed by the Respondent - PSPCL, as was evident from the photo attached on the Energy Meter Sealing Record (MSR), which did not contain the Petitioner’s signatures. On the MSR, the other consumers had appended their signatures.
5. The data of the Energy Meter reading for 100 days did not show consumption of even a single unit of energy as per photo copy attached.
6. The Energy Meter remained installed at the Petitioner’s premises for 1½ year but there was no change in reading and no energy consumption was recorded during this period of eighteen months of connection.
7. The Petitioner had 19.850 kW load and if the Energy Meter was given current, it could have consumed some units of energy during 18 months of connection, which was a matter of consideration.
8. It was also a matter for consideration and decision that as per PSPCL rules, what was the time period for issuing the Disconnection Connection Order (DCO) in the event of non deposit of the energy bill and whether or not the disconnection was done/approved as per rules.
9. If the Disconnection Order (DCO) and Permanent Disconnection Order (PDCO) were issued as per rules of the PSPCL within the stipulated time limit, then such an amount would not have got accumulated.
10. The connection was to be given from one to another pole which was of 20 ft. Length and 20 ft cable was required for it. It need to be inquired as to whether the authorised official came with a ladder to disconnect the connection and the Power Cable was rolled and kept on the other pole. The Cable was not peeled.
11. Neither any letter was written or sent to the Petitioner by post for installation of distribution transformer nor its signatures were obtained as acknowledgement on any letter. The Petitioner’s plot was of 60-70 ft. and the distribution transformer could be installed at any place. Thus, the whole story had been concocted by the Respondent.
12. The official, who took the reading of the Energy Meter, should be asked whether it had seen any light on the Energy Meter, at the time of taking monthly reading.
13. The Petitioner had not signed or given its consent at the time of checking of the Energy Meter in the M.E. Lab. The Energy Meter was checked in the M.E. Lab in the absence of the Petitioner or its representative.
14. The connection of the Petitioner should be reconnected and the amount recovered from it be refunded to the Petitioner after deducting the same from the salary of the delinquent officials/officers.
15. **Submissions of the Respondent:**

The Respondent, in its defence, submitted the following for consideration of this Court:

1. The Petitioner applied for a new Small Power (SP) Category connection with load of 19.850 kW on 26.04.2016 by depositing a sum of Rs. 11,980/- on account of Advance Consumption Deposit (ACD) and Meter Security.
2. The Petitioner was the issued a demand notice dated 23.05.2016, in compliance to which, the Petitioner deposited a sum of Rs.39,700/- on 16.08.2016 and submitted Test Report on 17.08.2016 and verified the same by the Respondent on the same day.
3. The connection to the Petitioner was released on 15.11.2016.
4. The Petitioner was issued an energy bill amounting to Rs.13,152/- (including surcharge of Rs. 222/-) on 29.03.2017 with a reading of 1 kVAh unit but the Petitioner did not deposit its bill. Subsequently, the bills were issued to the Petitioner but the Petitioner did not deposit the amount of bill.
5. The connection of the Petitioner was disconnected due to non-payment of bills raised on the basis of Monthly Minimum Charges (MMC) vide Disconnection Order No. 100005677199 dated 03.04.2018.
6. The Petitioner did not agree with the amount charged on the basis of Monthly Minimum Charges (MMC) levied as per provisions of Regulation 29.4 of the Supply Code-2014.
7. Due to objections raised by neighbours (Mohalla Wallas) against installation of 25 kVA distribution transformer at site, as per proposal made in the Estimate No.5682/3125 dated 16.08.2016, a new Estimate was prepared bearing No. F5682/63204 dated 28.10.2016 with the proposal to release the connection from the existing distribution transformer of 100 kVA named as Narinder Kaur Wala.
8. The unsigned letter, referred to by the Petitioner, had no value as it was initially written by the dealing official. It was only after the site was checked again and new proposal was framed and duly approved that the connection was actually released.
9. The seals of the Energy Meter were duly affixed by the concerned official at site.
10. The connection of the Petitioner was live even if it did not use the electricity and it was required to pay Monthly Minimum Charges (MMC). The Petitioner had been billed for Monthly Minimum Charges (MMC) as per Regulations.
11. The connection of the Petitioner was disconnected on 03.04.2018 as per instructions laid down in the Regulation 32.1 read with Regulation 33.1 the Supply Code-2014. However, any inadvertent error or act of omission on the part of the dealing official did not bar the Respondent – PSPCL to recover the demand raised as per the Regulation 29.4 of the Supply Code-2014.
12. The Respondent was not required to issue a notice to the Petitioner as contended by it.
13. The concerned official was taking reading of the Energy Meter regularly at site as per procedure laid down, but it never reported any irregularity.
14. Keeping in view the above, the Appeal may be dismissed.

**4. Analysis:**

The issue requiring adjudication is the legitimacy of the amount of Rs. 54,906/- charged to the Petitioner on the basis of Monthly Minimum charges (MMC) from the (date of installation of the connection (15.11.2016) to the date of its disconnection (03.04.2018).

 *The point emerged are analysed and deliberated as under:*

1. The present dispute relates to non-deposit of electricity bills for the period from 15.11.2016 to 03.04.2018 and disconnection of Small Power Category connection of the Petitioner on 03.04.2018. The Petitioner applied for the said connection with load of 19.850 kW on 26.04.2016 by depositing a sum of Rs. 11,980/- on account of Advance Consumption Deposit (ACD), Meter Security and processing fee. The Petitioner was issued a Demand Notice dated 23.05.2016, in compliance to which, the Petitioner deposited a sum of Rs.39,700/- on 16.08.2016 and also submitted the Test Report. The connection to the Petitioner was released on 15.11.2016. Thereafter, the Petitioner was issued energy bill amounting to Rs.13,152/- (including Surcharge of Rs. 222/-) on 29.03.2017 with a reading of 1 kVAh unit and nil consumption on MMC basis for the period from 15.11.2016 to 28.02.2017, but, the Petitioner did not deposit the said bill. The Petitioner also did not deposit the monthly bills issued subsequently due to which, the connection of the Petitioner was disconnected vide Disconnection Order No. 100005677199 dated 03.04.2018.

Petitioner’s Representative (PR) argued that though the Energy Meter was installed in the premises of the Petitioner on 15.11.2016, the connection was never energised. As the Power Cable was not connected to the load and Power Supply was not given, to the connection. The display on the Energy Meter showed the same reading at the time of disconnection on 03.04.2018 as was at the time of installation of the Energy Meter on 15.11.2016. Petitioner Representative (PR) added that no energy bill was issued to the Petitioner relating to the said connection during the period from 11/2016 to 02/2018. However, the Petitioner received an energy bill in the month of 04/2018 for Rs. 54,609/-. As the Petitioner did not pay this bill, its connection was disconnected on 03.04.2018. On inquiry from the office of the Respondent, the Petitioner was told that the bill had been prepared on the basis of Monthly Minimum Charges (MMC). PR added that the Petitioner had 19.850 kW load and if the Energy Meter was given current, it could have consumed at least some units of energy during 18 months of connection but in reality, no connection was released.

The Respondent, in its defence, stated that the Petitioner did not agree with the recoverable amount charged on the basis of Monthly Minimum Charges (MMC) levied as per Regulation 29.4 of the Supply Code-2014. The connection of the Petitioner was live even if it did not use the electricity and it was required to pay Monthly Minimum Charges (MMC) as per bills issued to it. The concerned official was taking reading of the Energy Meter regularly at site as per procedure laid down, but it never reported any irregularity.

*I find that Energy Meter was installed at reading of 0 kVAh and first reading taken by the Respondent was 1 kVAh Unit on 28.02.2017. This was due to the self consumption taken by the Energy Meter because as per Technical Specifications of static Energy Meters, the Power Consumption in each voltage circuit including Power Supply at reference voltage, reference temperature and reference frequency shall not exceed 1 Watt per phase and the apparent Power taken by each current circuit at Basic Current, reference frequency and temperature shall not exceed 1 VA per phase. I also find that no consumption of electricity was recorded by the Energy Meter installed at the premises of the Petitioner during the period of its installation from 15.11.2016 to 03.04.2018 as also confirmed by the checking report dated 21.08.2018 of ME Laboratory, but, the Energy Meter consumed 1 kVAh Unit, as per facts given above.*

*I observe that the Respondent was responsible for not issuing the first bill as per provisions contained in Regulation 30.3 of the Supply Code-2014 which reads as under:*

 *“****30.3. Issue of Electricity Bills***

*The distribution licensee shall issue bills to the consumer for the electricity supplied or for other services rendered with a periodicity of;*

1. *not more than two (2) months in respect of domestic Supply (DS) and Non-Residential Supply (NRS) consumers with loads less than 50kW;*
2. *in the case of DS and NRS consumers with loads of 50 kW and above and all other categories of consumers including agricultural pump sets (metered supply), bills shall be issued monthly;*
3. *bill may not be issued where Govt. intends to fully subsidize the electricity charges for any category of consumers but record of the energy consumed must be maintained.*

*Provided that electricity charges may be collected on a monthly basis from agricultural consumers charged at a flat rate and suitable entries made to that effect in a pass book to be provided by the distribution licensee to each such consumer. The passbook may also contain such other information as may be prescribed by the distribution licensee.”*

 ***I also observe that Respondent could not produce any evidence regarding delivery of bills to the Petitioner as required under provisions of Regulation 30.9 of the Supply Code-2014***

 ***I also find that the Petitioner was also responsible for not bringing it to the notice of the Respondent in writing that the connection was not energised when the Energy Meter was installed on the Pole in its premises.***

1. PR argued that the distribution licensee had prescribed time period for disconnection of the electricity connections in the event of non-deposit of energy bill by the consumer concerned and it needed to be investigated as to whether PDCO was issued and the connection was disconnected as per regulations approved by the Hon’ble PSERC.

 The Respondent contended that the connection of the Petitioner was disconnected on 03.04.2018 which was not as per instructions laid down in the Regulation 32.1 read with Regulation 33.1 of the Supply Code-2014. However, any inadvertent error or act of omission on the part of the dealing official did not bar the Respondent – PSPCL to recover the demand raised as per the Regulation 29.4 of the Supply Code-2014.

*I observe that the Respondent was responsible for not disconnecting the connection when the Petitioner was not continuously paying the bills as per the provisions contained in Regulation 32.1 of the Supply Code-2014, which is reproduced below:*

*“32.1: Where a consumer fails to deposit the billed amount with the distribution licensee by the due date mentioned in the bill, the distribution licensee may, after giving not less than fifteen clear days notice in writing to such consumer and without prejudice to his other rights to recover such amount by suit, disconnect supply to the consumer and for that purpose disconnect any electric supply line or other works being the property of such a distribution licensee until such charges or other sum together with any expenses incurred by the distribution licensee in disconnecting and reconnecting the supply are paid.*

*Provided that the supply of electricity shall not be disconnected if a consumer makes payment under protest as per Regulation 35.1 of these regulation;*

*Provided further that except in the case of theft of electricity, the supply of electricity to a consumer shall not be disconnected on a day when the next day is a holiday in the offices of the distribution licensee.”*

**5. Conclusion:**

From the above analysis, it proves beyond doubt that though a Small Power (SP) Category connection was installed by the Respondent at the premises of the Petitioner on 15.11.2016, the Energy Meter did not record energy consumption made by the Petitioner during the period, the same remained installed therein i.e. from 15.11.2016 to 03.04.2018, as also evidenced by the findings of the ME Laboratory in its Checking Report dated 21.08.2018. The Respondent defaulted in keeping a vigil on energy consumption by perusing the Energy Variation/Data though SAP billing system which was installed even with Addl. S.E/Sr. Xen, but also on non-deposit of the energy bills prepared on the basis of Monthly Minimum Charges (MMC) during the disputed period, as a result of which, the amount of first energy bill dated 29.03.2017 continued to be carried forward in subsequent energy bills and surcharge/interest thereon continued to be levied. Had the Respondent taken timely cognizance of non-deposit of energy bill prepared on MMC basis, it could have disconnected the electricity connection of the Petitioner 15 days after the due date fixed for deposit of first bill in terms of provisions contained in Regulation 32.1 of the Supply Code-2014.

I am of the view that since, the Respondent did not disconnect the electricity connection of the Petitioner within the stipulated period referred to above, and the Petitioner failed to bring this fact in writing to the notice of the Respondent, ends of justice would be met if the Petitioner is made liable to pay Monthly Minimum Charges (MMC) for the period from the date of installation of the Energy Meter (15.11.2016) to the date on which, the Respondent was required to disconnect the connection of the Petitioner i.e. 25.04.2017 (after 15 days from the due date of payment of first bill which was 10.04.2017) without any interest.

**6. Decision:**

 **As a sequel of above disconnections, the order dated 30.11.2018 of the CGRF, Ludhiana in Case No. CGL-018 of 2018 is set aside. It is held that the Petitioner shall be charged Monthly Minimum Charges only for the period from 15.11.2016 to 25.04.2017 as per conclusion arrived at in para 5 above without any surcharge and interest. Accordingly, the Respondent is directed to recalculate the demand and refund/recover the amount found excess/short, if any, after adjustment.**

**7.** The Appeal is disposed of accordingly.

**8.** In case, the Petitioner or the Respondent (Distribution Licensee) is not satisfied with the above decision, it is at liberty to seek appropriate remedy against this order from the appropriate Bodies in accordance with the Regulation 3.28 of the Punjab State Electricity Regulatory Commission (Forum and Ombudsman) Regulations–2016.

 (VIRINDER SINGH)

March 19, 2019 LokPal (Ombudsman)

S.A.S. Nagar (Mohali) Electricity, Punjab.