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

**ELECTRICITY, PUNJAB,**

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

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

**APPEAL NO. 11/2019**

**Date of Registration :31.01.2019**

**Date of Hearing : 25.04.2019**

**Date of Order : 30.05.2019**

**Before:**

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

**In the Matter of :**

 Parveen Kumar, SLDR Fabrics Pvt Ltd,

Plot No. 4199, Jalandhar Bye Pass,

Basti Jodhewal Colony,

Ludhiana,

 ...Petitioner

 Versus

 Senior Executive Engineer,

DS, Sundar Nagar Division(Special),

PSPCL, Ludhiana.

 ...Respondent

**Present For:**

Petitioner : Sh. Mayank Malhotra, Advocate,

 Petitioner’s Counsel (PC).

Respondent : Er. Deepinder Singh,

 Senior Executive Engineer,

 DS, Sundar Nagar Division (Special),

 PSPCL, Ludhiana.

Before me for consideration is an Appeal preferred by the Petitioner against the order dated 31.12.2018 in Case No. CGL-030 of 2018 of the Consumers Grievances Redressal Forum (Forum) deciding as under:

1. *“The bill of the Petitioner for the month of August, 2018 issued on actual consumption, is in order and recoverable from the Petitioner.*
2. *Dy. Chief Engineer/Operation Circle, City East, PSPCL, Ludhiana is directed to take disciplinary action against the delinquent officer/official for negligence in performing their duties by recording incorrect monthly reading causing recurring financial loss to PSPCL.”*

**2. Facts of the Case:**

 The relevant facts of the case are that:

1. The Petitioner was having a Medium Supply (MS) Category connection with sanctioned load of 95.540 kW and contract demand (CD) as 99.999 kVA for which, the Metering was being done by providing LT CT operated static Energy Meter.
2. The connection of the Petitioner was checked by the Addl. S.E/Enforcement, PSPCL, Nawanshahar, vide ECR No. 034/186 dated 05.07.2018, wherein it was reported that the Energy Meter was checked with Electronic Reference Standard (ERS) Meter at load of 15.800 kW and Power Factor of 0.96 lag and its accuracy was found within limits. The Checking Officer also reported that the Energy Meter was of old version and directed that the same be replaced and sent to the ME Lab for further investigation.
3. As per the said Checking Report, Segment 1, 2 and 3 on the display of the Energy Meter were flickering and pulse was blinking. The Readings of the Energy Meter were as under:-

kWh = 28,25,300

kVAh = 30,64,256

Demand = 52.154 kVA

It was also reported that previous reading as per bill dated 17.3.2018, was as follows:

kWh = 24,77,604

kVAh = 29,99,298

Demand = 52.154 kVA

1. In compliance to the directions of the Enforcement, the disputed Energy Meter was replaced, vide Device Replacement Application No. 100006107650 dated 05.07.2018 and got checked, with the consent of the Petitioner from the ME Lab wherein the Accuracy was found within permissible limit and DDL was also taken.
2. The Petitioner was served with bill dated 23.08.2018 for the period from 08.07.2018 to 04.08.2018 for 50,489 kVAh units. The readings of old Energy Meter were as under:-

kWh = 28,36,692

k VAh = 30,76,404

Demand = 52.154 kVA

The relevant Power Factor was worked out as 0.66 Lag.

1. The Petitioner did not agree with the bill issued to it on 23.08.2018 on the plea that it was very much on higher side because its consumption in kVAh for the period of 12 months prior to issue of disputed bill, remained between 6,864 to 10,485 units and there might be jumping of meter reading.
2. The Petitioner did not agree with the bill dated 23.08.2018 and filed a Petition dated 15.11.2018 in the CGRF, Ludhiana, who, after hearing, passed order dated 31.12.2018 (Reference: Page 2, Para 1).
3. Not satisfied with the decision of the Forum, the Petitioner preferred an Appeal in this Court and prayed to quash the same and set aside the demand raised, vide bill dated 23.08.2018 for Rs.3,19,930/- along with surcharge and interest to do justice to it. Besides, the Respondent Corporation should be directed to refund the amount deposited by the Petitioner along with interest.
4. **Submissions made by the Petitioner and the Respondent:**

 Before undertaking analysis of the case, it is necessary to go through the 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.

**(a) Submissions of the Petitioner**:

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

1. The Petitioner was having an electric connection, under Medium Supply Category, with sanctioned load of 94.540 kW and contract demand (CD) 99.999 kVA bearing Account No. 3002801535.
2. The Energy Meter, bearing Sr. No. 00917822 of L&T make had been checked by the Addl. S.E/Enforcement, PSPCL, Nawanshahar vide ECR No. 034/186 dated 05.07.2018. The checking officer had concluded that the accuracy of the Energy Meter was within limits and directed the Respondent to replace the Energy Meter, being of old version and get it checked from M.E. Laboratory in the presence of the Petitioner and Enforcement. But, the Respondent – PSPCL did not give any intimation to the Petitioner regarding checking of he Energy Meter in ME Lab. The Respondent – PSPCL took signatures of the Petitioner on blank paper and used the same as consent of the Petitioner.
3. The Respondent – PSPCL issued wrong and exorbitant bill for the period from 08.07.2018 to 04.08.2018 (27 days) amounting to Rs.3,19,930/- for consumption of 50, 489 kVAh units.
4. The Petitioner approached Respondent – PSPCL and requested to correct the wrong bill since it had been issued for excessive kVAh consumption due to jumping of the Energy Meter reading. The Petitioner further requested the Respondent to investigate the matter and correct the bill so that the correct billed amount could be deposited but the Respondent did not take any action to correct the disputed billed amount. The Petitioner had deposited all the genuine bills except the said disputed bill.
5. The kVAh consumption of the Energy Meter for the previous 12 months before issuance of bill dated 23.08.2018 remained between 6,864 to 10,485 kVAh units only. The consumption

shown by the new Energy Meter also remained constant and was comparable with the consumption recorded by the old Energy Meter except disputed bill dated 23.08.2018 for the abnormal kVAh consumption of 50,489 units which was due to jumping of the reading of the disputed Energy Meter. Since, considering the load and recorded consumption for pre- disputed period, the kVAh consumption could not be 50,489 units for disputed period of only 27 days.

1. The Forum failed to appreciate that according to Instruction

No.51.1 of ESIM, it was the responsibility of the Respondent - PSPCL to install a correct Energy Meter of suitable capacity. The Petitioner never interfered with the Energy Meter or its connection and there was no allegation, as such, against the Petitioner.

1. The Forum failed to appreciate that according to Regulation No. 21.3 of Supply Code- 2014, the licensee had to conduct periodical inspection/testing of the Energy Meter installed at the Petitioner’s premises. But, there was nothing on record to ascertain it. The Respondent – PSPCL was also required to place on record the calibration report of the reference Energy Meter, if any, with which accuracy of the metering equipment is checked, but no action had been taken by the Respondent- PSPCL.
2. The Forum failed to appreciate that according to ESIM instruction No. 102.7 of ESIM, an Energy Variation Register

was maintained by the Respondent to watch variance in monthly consumption.

1. The Forum failed to appreciate that Instruction No. 104.1 of ESIM provided checking schedule for checking of connections. There was no allegation of any type of slowness etc., with regard to working of the metering equipment. There was no allegation of any type of interference with the working of the Energy Meter against it in the past.
2. The Forum failed to appreciate the fact that the consumption of the Energy Meter of the Petitioner remained constant

before and after installation of new Energy Meter vide Device Replacement Application No.100006107650 dated 05.07.2018. The Respondent had already taken the DDL vide challan dated 16.08.2018.

1. The Forum had hypothetically and without any evidence concluded that this case was of accumulation of reading which was totally baseless and without any evidence.
2. Aggrieved with the decision of the Forum, an Appeal was preferred in this Court with the request that the decision dated 31.12.2018 of the Forum be set aside and the illegal demand vide bill dated 23.08.2018 amounting to Rs. 3,19,930/- along with surcharge and interest be quashed. Besides, the Respondent – PSPCL be directed to refund the amount deposited by the Petitioner along with interest, in the interest of justice.
3. **Submissions of the Respondent:**

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

1. A Medium Supply (MS) category with sanctioned load of 95.540 kW and contract demand (CD) of 99.999 kVA, was running in the name of the Petitioner.
2. The Petitioner was regularly billed for actual consumption from the date of release of the connection.
3. The Energy Meter of the Petitioner was checked with ERS Meter by the Addl. S.E, Enforcement, PSPCL, Nawanshahar on 05.07.2018 and the accuracy of the Energy Meter was found within limit and reading was noted as 28,25,300 kWh, 30,64,256 kVAh with demand as 52.154 kVA.
4. As the Energy Meter was of old version, the same was replaced, as per the direction given in ECR No. 034/186, on 05.07.2018.
5. Thereafter, the Energy Meter was checked on 16.08.2018 in the ME Laboratory, which reported final readings as 28,36,692 kWh and 30,76,404 kVAh and declared that the accuracy of the Energy Meter was within limit. On the basis of reading reported/declared by the ME Lab, PSPCL, Ludhiana, the Energy Bill dated 23.08.2018 amounting to Rs. 3,19,930/- was issued to the Petitioner.
6. The Petitioner, instead of depositing the billed amount, filed a Petition before the Forum by depositing 20% (Rs. 64,000/-) of the disputed amount on 27.11.2018. The Forum, after hearing, decided that the bill dated 23.08.2018, issued on actual consumption basis, was in order and recoverable from the Petitioner.
7. In view of the above, the Appeal may be dismissed.
8. **Analysis:**

The issue requiring adjudication is the legitimacy of the demand raised against the Petitioner, vide bill dated 23.08.2018 for the period from 08.07.2018 to 04.08.2018 for 50,489 kVAh units issued after checking dated 05.07.2018 by the Enforcement.

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

1. The present dispute arose after the connection of the Petitioner was

checked by the Addl. S.E/Enforcement, PSPCL, Nawanshahar vide ECR No. 034/186 dated 05.07.2018 reporting that Energy Meter was checked with Electronic Standard Reference (ESR) Meter at load of 15.800 kW and Power Factor of 0.96 lag and accuracy was within limits. The Addl.S.E/ Enforcement, PSPCL, also reported that Energy Meter was of old version and be replaced it and sent to in ME Lab for further investigation. As per the said checking report, the Readings of Energy Meter were kWh: 28,25,300, kVAh : 30,64,256 and Demand : 52.154 kVA. As per the said report, previous reading shown in the bill dated 17.3.2018 were kWh : 24,77,604, kVAh : 29,99,298 and Demand: 52.154 kVA. In compliance to the directions of the Addl.SE/Enforcement, the Energy Meter was replaced vide Device Replacement Application No. 100006107650 dated 05.07.2018 and got checked with the consent of the Petitioner on 16.08.2018, from ME Lab wherein its Accuracy was found within permissible limits and DDL was also taken. As a result, the Petitioner was issued bill dated 23.08.2018 for 50,489 kVAh units. The readings of old Energy Meter were kWh: 28,36,692, kVAh :30,76,404, Demand : 52.154 kVA resulting into Power Factor as 0.66 Lag.

1. Petitioner’s Counsel (PC) contended that the bill issued to it on 23.08.2018 was very much on higher side because its consumption in kVAh for the period of 12 months prior to issue of disputed bill remained between 6,864 to 10,485 units and there might be jumping of reading. The Addl. Superintending Engineer, Enforcement had in its checking report dated 05.07.2018, directed the Respondent to replace the Energy Meter of old version and send the same to the ME Lab for further investigation. PC added that officials of the Respondent took the signatures of the Petitioner on a blank paper and used the same as its consent for checking of the Energy Meter in ME Lab without its presence.

The Respondent, in its defence, denied the averment of the PC and stated that Petitioner itself had given the consent to check the Energy Meter in ME Lab as per directions issued on 05.07.2018 by the Enforcement.

1. Petitioner’s Counsel contended that the kVAh consumption of the Energy Meter of the Petitioner for the previous twelve months, before issue of disputed bill dated 23.08.2018, remained between 6,864 to 10,485 units only. The consumption of the new Energy Meter of the Petitioner also remained constant and was comparable with consumption of old Energy Meter except the consumption shown in the disputed bill dated 23.08.2018. The abnormal kVAh consumption of 50,489 kVAh units in bill dated 23.08.2018 was due to jumping in the reading of the disputed Energy Meter, as was evident from the fact that considering the load and recorded consumption for the previous period, the kVAh consumption could not be 50,489 units for 27 days only. Petitioner’s Counsel argued that the maximum kWh consumption, on the basis of LDHF formula, worked out to be 11,345 units (94.54 kW x 25 days x 8 hours x 60%) or 12,606 kVAh units (11,345/0.90). It was clear and beyond doubt that there was a fault in the working of the Energy Meter and the reading had jumped leading to recording of abnormal consumption for 27 days billing period.

 The Respondent submitted that the connection of the Petitioner was checked by the Addl.S.E./Enforcement, PSPCL, Nawanshahar, who observed that the Segments 1, 2 and 3 at the display of the Energy Meter were flickering and the pulse was blinking. The accuracy of the Energy Meter was checked at running load of the connection with ERS Meter and found O.K.The said Checking Officer also directed that the Energy Meter, being of old version, be replaced and sent to ME Lab for further investigation. In compliance to these directions, the Energy Meter was replaced on the same day (05.07.2018) and sent, vide Challan No. 2447 dated 16.08.2018, to the ME Lab which reported that accuracy of the Energy Meter was within permissible limit and also took the DDL. Based on the report dated 16.08.2018, a bill dated 23.08.2018, for the period from 08.07.2018 to 04.08.2018, for energy consumption of 50,489 kVAh units, which was adjudged to be in order by the Forum, who also held that the plea of applicability of LDHF formula was not relevant in the present context.

**(iv)** During the course of hearing on 25.04.2019, Petitioner’s Counsel (PC) emphasised that the observation of the Forum, in its order dated 31.12.2018, that this was a case of accumulation of the readings of the Energy Meter, was not justified considering the energy consumption of the unit during 12 months preceding the billing period. Petitioner’s Counsel added that the pattern of the energy consumption during the years 2015-16 to 2018-19 (except for disputed bill) was commensurate with the work and resultant production of the unit during these years. Petitioner’s Counsel was then directed orally and also vide this Court e-mail letter no.511/A-11/2019 dated 30.05.2019 to substantiate its contention by furnishing the evidence in the form of the Balance Sheets (showing the details of production etc.) for the years 2015-16 to 2018-19 by 7th May 2019 positively for consideration and decision.

1. In compliance to the above directions, the Petitioner got sent the

Independent Auditors Report/Balance Sheets certified by Kapoor & Associates, Ludhiana on the accounts of its Unit for the Financial Years 2014-15 to 2017-18

 I have perused the details relating to annual accounts of the Petitioner’s Unit showing profits, stock etc. for the years 2014-15 to 2017-18 which apart also do not support the contention of the Petitioner that work in its Unit remained almost uniform and the dispute arose due to jumping of the reading of the Energy Meter. Since considering the load and recorded consumption during pre-disputed and post disputed period, the kVAh consumption could not 50,489 units during the disputed period of 27 days only.

 I find that the consumption data placed on record also does not give any indication that work in the Petitioner’s Unit remained the same during 12 months prior to the date of checking of the connection by the Enforcement, so, the plea of the Petitioner that maximum kVAh consumption as per LDHF formula came to 12,606 kVAh could not be taken as reference because, during many months, the consumption of the Petitioner’s connection was more than 12,606 kVAh i.e. 23,212 kVAh during 06/2015; 37,212 kVAh during 07/2015; 15,038 kVAh during 08/2015; 12,752 kVAh during 04/2016;19,607 kVAh during 07/2016; 24,519 during 02/2017 and 17; 319 kVAh during 08/2018.

 I also find that reading of the Petitioner’s Energy Meter on 05.07.2018 ( date of checking by the Enforcement), were 30,64,256 kVAh and 28,25,300 kWh whereas, as per reading record, the readings recorded by the DS Division were kVAh:30,25,936, kWh:28,03,149. This clearly shows that readings recorded by the DS Division on 08.07.2018 were not correct as the readings recorded during checking dated 05.07.2018 by the Enforcement were much higher than that recorded by the Meter Reader (of DS Division) on 08.07.2018.

 In view of the above, the Forum rightly observed that:

 *“ it is a case of accumulation of reading and not a Meter jumping case for which, action is required to be taken against the official recording the monthly reading of the Petitioner”.*

5. **Conclusion:**

From the above analysis, it is concluded that the energy bill dated 23.08.2018 of the Petitioner’s connection for the month of August 2018 was issued on actual energy consumption basis for 50,489 kVAh units is in order and recoverable from the Petitioner who failed to produce tangible evidence to the contrary.

**6**. **Decision**:

 As a sequel of above discussions, the order dated 31.12.2018 of the CGRF, Ludhiana in Case No.CGL-30 of 2018 is upheld.

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

1. 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)

May 30, 2019 LokPal (Ombudsman)

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