**COURT OF THE LOKPAL (OMBUDSMAN),**

**ELECTRICITY, PUNJAB,**

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

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

**APPEAL NO. 49/2019**

**Date of Registration : 14.08.2019**

**Date of Hearing : 17.10.2019**

**Date of Order : 21.10.2019**

**Before:**

 **Er. Virinder Singh, Lokpal (Ombudsman), Electricity.**

**In the Matter of**

Baljeet Singh,

 B-57/A, Phase-8,

Focal Point,

Ludhiana.

 ...Petitioner

 Versus

 Additional Superintending Engineer,

DS Focal Point Division(Special),

PSPCL, Ludhiana .

 ...Respondent

**Present For:**

Petitioner : Sh. Jivtesh Singh Nagi, Advocate,

 Petitioner’s Counsel (PC).

Respondent : Er.Harvinder Singh

 Assistant Executive Engineer/Commercial-2,

DS Focal Point Division(Special),

PSPCL, Ludhiana.

 Before me for consideration is an Appeal preferred by the Petitioner against the decision dated 15.07.2019 in Case No. CGL-159 of 2019 of the Consumer Grievances Redressal Forum (Forum), Ludhiana stating as under:

*“ The refund of Voltage Surcharge charged to the Petitioner in his regular bills, for the period 02/2016 to 04/2019 along with refund of ED & IDF is allowed to the Petitioner as per rules and regulations of PSPCL after getting it pre-audited. Further, no interest is allowed on the amount to be refunded.”*

**2. Facts of the Case:**

 The relevant facts of the case are that:

1. The Petitioner, having sanctioned load of 89.930 kW and contract

demand (CD) of 99.920 kVA ( under Medium Supply Category) at Supply Voltage 400 volts, applied for extension in load to 224.930 kW and CD as 234.920 kVA ( under Large Supply category) on dated 11.12.2014 which was approved on 09.07.2015 at Supply Voltage of 11 kV.

1. As per Service Connection Order (SCO), the HT Energy Meter

along with 11 kV/ 110 V, CT/PT unit was installed at the time of extension of load.

1. After extension in load and CD, the admissible voltage on the bills

was shown as 11 kV whereas Supply Voltage and Metering Voltage as 0.400 kV, on the monthly bills upto 02.05.2019. Hence, voltage surcharge was charged in the monthly bills. This discrepancy was corrected in the energy bill dated 04.06.2019. The Petitioner statedly requested the AEE/ Commercial, Focal Point Division (Special), PSPCL, Ludhiana to make necessary correction in the bills, but it was not given refund of the excess amount charged since 2015 (Date of release of additional load) upto the date of correction of supply voltage in the bill. Hence, the Petitioner filed a Petition dated 18.06.2019 in the Forum who, after hearing, passed the order dated 15.07.2019. (Reference Page-2, Para-1).

1. Not satisfied with the decision of the Forum, the Petitioner preferred

an Appeal in this Court and prayed for partly setting aside the order dated 15.07.2019 to the extent of interest on the excess amount paid by the Petitioner on the bills since 2015 as voltage surcharge and ED & IDF and to pay the excess amount charged as stipulated in the aforementioned order alongwith the interest as stipulated in the Supply Code -2014.

**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 alongwith 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 was presently having a Large Supply Category

connection with sanctioned load of 224.930 kW and contract demand (CD) as 234.920 kVA.

**(ii)** The Petitioner had applied for extension in load from 89.930 kW and contract demand (CD) of 99.920 kVA to 224.930 kW and 234.920 kVA respectively on 11.12.2014. The extension applied was approved and released on 09.07.2015 on supply voltage 11 kV. But, after release of extension, the supply voltage on the bills of the Petitioner remained 400V against actual voltage of 11 kV although, the extension was released on 11 kV, as a result of which, the Petitioner was wrongly charged Voltage Surcharge in the regular bills since the release of extension.

(iii) The Petitioner was being billed for Voltage Surcharge wrongly since 2015 as the Supply Voltage on the bills remained 400 V after the extension /conversion from Medium Supply to Large Supply, although the connection was released on supply voltage of 11 kV. The Petitioner , aggrieved with the conduct of the Respondent, approached the CGRF, Ludhiana claiming that the Voltage Surcharge so levied along with ED and IDF be refunded to the Petitioner alongwith interest.

(iv) The Forum, after perusing the requisite record, observed that the Voltage Surcharge was being wrongly levied upon the Petitioner on account of the failure of the Respondent and directed it, vide Order dated 15.07.2019, to refund the Voltage Surcharge charged to the Petitioner in its regular bills for the period from 02/2016 to 04/2019 alongwith refund of ED and IDF. However, the Forum disallowed the interest on the charges that had been levied upon and paid by the Petitioner in excess in the first instance alongwith the monthly energy bills.

(v) The said order was passed on 15.07.2019 and as reflected in the order itself, the Respondent was bound to comply with the order within 21 days from the receipt of the same. However 21 days had since elapsed and the Respondent had failed to comply with the order and no refund had been made to the Petitioner as stipulated in the said order so far.

(vi) The Petitioner was being charged in excess and was entitled to get interest on the amounts billed in excess and paid by the Petitioner in consonance with Regulation 35.1.3 of Supply Code-2014. The Petitioner was, therefore, entitled to get interest on the amounts charged in excess @ base rate of the SBI on 1st April of the relevant Financial Year plus 2% from 08/2016 to 04/2019. The amount of interest payable on excess Voltage Surcharge was Rs.2,25,947/- (Approximately).

1. The interest shall be given as per SBI Base Rate available on its

official website. In addition to that, interest was payable on ED & IDF, details of which were not available and the Respondent be directed to calculate the same from the official record.

1. The Respondent was, therefore, liable to pay Rs.2,25,947/- as

interest on the wrongly charged Voltage Surcharge and in addition to that, interest payable on ED & IDF apart from the refund was payable by the Respondent in the order.

1. The Forum completely ignored the aforementioned statutory

provision and failed to take into account the facts and circumstances of the instant matter. The Forum erred in disallowing the interest to the Petitioner and the order violated the said Regulation 35.1 of Supply Code. Therefore, the order dated 15.07.2019 deserved to be set aside partly only to the extent of denial of interest on the amount payable by the Respondent and the Petitioner was entitled to get interest on the wrongly charged Voltage Surcharge.

1. Besides, the Respondent failed to comply with the order dated

15.07.2019 and the excess amount charged to the Petitioner had not been refunded so far by it.

1. The Petitioner could not be made to suffer on account of the failure

of the Respondent to acknowledge the relevant provisions of Law. If the Petitioner was denied the interest on the excess bill, it would not only be contrary to Law, but also against the principles of equity, justice and good conscience.

1. The order dated 15.07.2019 to the extent of denial of interest on the

excess amount paid by the Petitioner on the energy bills since 2015 be set aside as Voltage Surcharge and ED & IDF and direction be issued to the Respondent to pay the excess amount charged as stipulated in the Supply Code-2014.

1. In view of the submissions made, the Appeal be allowed to meet

ends of justice.

(**b) Submissions of the Respondent:**

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

1. The Petitioner applied for extension in load from 89.930 kW to 224.930 kW and contract demand (CD) from 99.920 kVA to 234.920 kVA which was approved on 09.07.2015 at Supply Voltage of 11 kV.
2. But after extension, the admissible voltage on the bills of the petitioner remained 400 V, instead of 11 kV. The supply Voltage on the bill was now corrected.
3. The Petitioner was charged Voltage Surcharge in the regular energy bills for which, it sought refund by filing Case No.CGL-159 of 2019 in CGRF, Ludhiana who, after hearing, decided vide its order dated 15.07.2019 that the refund of Voltage Surcharge charged to the Petitioner in its regular bills for the period from 02/2016 to 04/2019 along with ED & IDF was refundable to the Petitioner as per Rules and Regulations of PSPCL after getting it pre-audited. However, no interest was allowed on the amount to be refunded as the Petitioner, being a Large Supply Category consumer, did not act prudently and responsibly and never raised the objection regarding levy of Voltage Surcharge, since extension of its load, therefore, the Petitioner was equally responsible for not getting th correction done in its energy bills.
4. Refund of Voltage Surcharge along with ED & IDF amounting to Rs.12,60,920/- was credited to Petitioner’s account on 19.08.2019.
5. In view of the submissions made, the Appeal be dismissed.

**4. Analysis**

 The issue requiring adjudication is the legitimacy of the plea of the Petitioner for payment of interest on refund of Voltage Surcharge alongwith ED & IDF wrongly charged in regular bills of the Petitioner for the billing months of 02/2016 to 05/2019.

 *The points emerging in the present dispute are deliberated and analysed as under:*

1. The present dispute arose due to the fact that the Petitioner applied

for extension in load from 89.930 kW and contract demand (CD) of 99.920 kVA to 224.930 kW and 234.920 kVA respectively on 11.12.2014. The extension applied was approved and released on 09.07.2015 on supply voltage 11 kV. But, after release of extension, the supply voltage on the bills of the Petitioner remained 400V against actual voltage of 11 kV, as a result of which, the Petitioner was wrongly charged Voltage Surcharge in the regular bills issued for the billing months of 02/2016 to 05/2019, i.e. since the release of extension in its load. The Petitioner felt aggrieved with the conduct of the Respondent and approached the CGRF, Ludhiana claiming that the Voltage Surcharge so levied alongwith ED and IDF be refunded to the Petitioner alongwith interest. The Forum, after perusing the requisite record, observed that the Voltage Surcharge was being wrongly levied upon the Petitioner by the Respondent and directed it, vide Order dated 15.07.2019, to refund the Voltage Surcharge so charged to the Petitioner in its regular bills for the billing months from 02/2016 to 05/2019 alongwith refund of ED and IDF. However, the Forum disallowed the interest on the voltage surcharge and other charges which were levied upon and paid by the Petitioner in excess in the first instance alongwith the monthly energy bills. The Petitioner submitted in its present Appeal that the order ibid was passed on 15.07.2019 and as reflected in the order itself, the Respondent was bound to comply with the order within 21 days from the receipt of the same. However 21 days had since elapsed and the Respondent had failed to comply with the order and no refund had been made to the Petitioner as stipulated in the said order so far.

I find that the Respondent, in its written reply, submitted that refund of Voltage Surcharge alongwith ED/IDF (relating to billing months of 02/2016 to 05/2019) amounting to Rs.12,60,920/- was credited to the Petitioner’s account on 19.08.2019. Petitioner’s Counsel (PC) confirmed about credit of refund to Petitioner’s account on being so asked during hearing.

(ii) Petitioner’s Counsel (PC) next contended that the Respondent was liable to pay Rs.2,25,947/- as interest on the wrongly charged Voltage Surcharge and in addition to that, interest payable on ED& IDF apart from the refund of Voltage Surcharge allowed by the Forum. The Petitioner could not be made to suffer on account of the failure of the Forum and the Respondent to acknowledge the relevant provisions of Law. If the Petitioner was denied the interest on the excess bill, it would not only be contrary to Law, but also against the principles of equity, justice and good conscience. The order dated 15.07.2019 to the extent of denial of interest on the excess amount paid by the Petitioner on the energy bills from 02/2016 to 05/2019 be set aside as Voltage Surcharge and ED & IDF and direction be issued to the Respondent to pay the excess amount charged as stipulated Regulation 35.1.3 of Supply Code-2014 which is reproduced below:

*“ If the amount paid by the consumer under Regulation 35.1.1 is in excess of the revised bill, such excess amount shall be refunded through adjustment first against any outstanding amount due to the distribution licensee and then against the amount becoming due to the distribution licensee immediately thereafter. The distribution licensee shall pay to such consumer interest on the excess amount at twice the SBI’s Base Rate prevalent on first of April of the relevant year plus 2% from the date of payment till such time the excess amount is adjusted”.*

 I observe that the Respondent is responsible for not sending the Advice to the Centralised Billing Cell (CBC) changing the Supply Voltage from 0.400 kV to 11 kV. Had the Respondent discharged its duties and obligations in this regard sincerely, unnecessary litigation could have been avoided.

 In this connection, I have perused the order dated 15.07.2019 of the CGRF, Ludhiana deciding as under:

*“Further, the Petitioner, being a Large Supply Category consumer did not act prudently and responsibly and never raised the objection of levy of Voltage Surcharge, since extension of his load, therefore, he is equally responsible for not getting the correction done in his energy bills, so, no interest is allowed on the amount to be refunded”.*

I find that the Forum decided about not allowing interest on the refund of Voltage Surcharge alongwith that of ED and IDF ( relating to bills for the billing months 02/2016 to 05/2019) keeping in view that the Petitioner had not brought any evidence on record to prove that it had represented to the Respondent about the same. As such, order dated 15.07.2019 of the Forum does not warrant any interference by this Court.

**5. Conclusion:**

From the above analysis, it is concluded that no interest is payable to the Petitioner on the refunded amount of Voltage Surcharge alongwith that of ED & IDF ( for the billing months of 02/2016 to 05/2019) as decided by the Forum vide order dated 15.07.2019.

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

**As a sequel of above discussions, the order dated 15.07.2019 of the CGRF, Ludhiana in Case No. CGL-159 of 2019 is upheld.**

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

**8**. In case, the Petitioner or the Respondent 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 Regulation 3.28 of the Punjab State Electricity Regulatory Commission (Forum and Ombudsman) Regulations-2016.

 (VIRINDER SINGH)

 October 21, 2019 Lokpal (Ombudsman)

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