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

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

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

 **APPEAL NO. 52/2019**

**Date of Registration : 05.09.2019**

**Date of Hearing : 07.11.2019**

**Date of Order : 14.11.2019**

**Before:**

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

**In the Matter of :**

Dharam Paul

s/o Sh.Roop Chand,

H.No.03 (Aggarwal Cycle Store),

Ward No.1,

Near Post Office, Lehragaga,

District Sangrur

 ...Petitioner

 Versus

Addl.Superintending Engineer,

DS Division ,

 PSPCL, Sangrur

 ...Respondent

**Present For:**

Petitioner : Sh.Tarun Kumar

 Petitioner’s Representative (PR).

Respondent : Er.Ashok Kumar Singla,

 Addl.Superintending Engineer,

 DS Division ,

 PSPCL, Sangrur

 Before me for consideration is an Appeal preferred by the Petitioner against the order dated 31.07.2019 of the Consumer Grievances Redressal Forum (Forum), Patiala in Case No.CGP-181 of 2019 deciding that :

 “a. *The account of the Petitioner for the period of six*

*months immediately before 23.10.2018 be overhauled on the basis of energy consumption of corresponding period of previous year as per Regulation 21.5.2(a) of Supply Code-2014 by treating the Meter as defective.*

*b. Further an amount of Rs.120/- deposited vide BA-16*

*No.269/81363 dated 04.04.2008 and Rs.120/- deposited vie BA-16 No.19/50712 dated 13.09.2018 for challenging the working of the Meter be also refunded to the Petitioner.*

*c. Further an amount of Rs.10,000/- be paid to the*

*Petitioner as compensation and the said amount be recovered from the delinquent officials/officer posted as on 04.04.2008 responsible for not providing the service to the Petitioner as per standards of performance”.*

**2**. **Facts of the Case:**

 The relevant facts of the case are that:-

1. The Petitioner was having a Domestic Supply (DS) Category

connection with sanctioned load of 3.533 kW since 19.03.2018 previously, the sanctioned load of the said connection was 1.780 kW.

1. The Petitioner was not satisfied with the working of the Energy

Meter and challenged it on 04.04.2008 by depositing Meter Challenge Fee of Rs.120/- As a result, Meter Change Order No.173/67120 dated 04.04.2008 was issued but the challenged Energy Meter was not tested at site or in ME Laboratory.

1. After installation of a new AC in 03/2018, the Petitioner applied

for extension in load from 1.780 kW to 3.533 kW which was released on 19.03.2018 but the Energy Meter remained the same.

1. The Petitioner received the energy bill for consumption of 1677

kWh units in the month of 07/2018. Assuming that the consumption was on higher side, the Petitioner again challenged the working of the Energy Meter by depositing the requisite fee of Rs 120/- on 13.09.2018.

1. The Energy Meter was replaced vide Meter Change Order No.

83/36067 dated 25.09.2018 at reading of 43,992 kWh.

1. The removed Energy Meter was got checked on 23.10.2018 from the

M.E laboratory which reported that accuracy of Energy Meter was beyond permissible limits and the same as defective.

1. The account of the Petitioner was overhauled for last 3 cycles as per

provisions contained in Regulation 21.5 of Supply Code-2014 and refund of Rs 4,486/- was given to it.

1. The Petitioner was not satisfied and claimed the refund from

04.04.2008 when the Energy Meter was initially challenged by it. Accordingly, Petitioner filed a Appeal dated 23.07.2019 in CGRF, Patiala who, after hearing, passed the order dated 31.07.2019. ( Reference Page-2,Para-1).

1. The Petitioner did not agree with the decision of the Forum and

preferred an Appeal in this Court stating that relief was required to be given from 04.04.2008 when the working of Energy Meter was challenged. Besides, no interest was allowed on the amount ordered to be refunded though the amount paid by the Petitioner remained in the account of the PSPCL due to its negligence for not providing service in time. At the same time, the compensation of Rs 10,000/-, ordered to be paid by the Forum, was insufficient and may be increased.

**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 Forum had not granted any relief regarding payment of Rs 1,50,000/- claimed by the Petitioner as the said amount paid by it remained in the account of the Respondent-PSPCL, for more than 10 years 6 months due to payments made for consumption recorded by defective/faulty Energy Meter and for its (Respondent’s) negligence for not providing service to the Petitioner in time.
2. If the Energy Meter was replaced on the basis of first application dated 04.04.2008 of the Petitioner, then, the Petitioner would not have to bear burden of huge amount which had caused huge financial loss to the Petitioner as well as mental harassment.
3. The Respondent, in its written statement, had acknowledged that it had defaulted by not providing the required service to the Petitioner and the Forum observed that it was complete negligence of the Respondent.
4. The Respondent stated in the Forum that the Energy Meter in question was earlier challenged in the year 2008 by depositing the requisite fee and again challenged in the year 2018, but during the said period of 10½ years, the Petitioner neither contacted the office of the Respondent nor submitted any representation. This was not correct as the Petitioner was neither mad nor abnormal that after paying fee for change of energy Meter did not follow up its request. The Petitioner visited the office of the Respondent many a times, but no action was taken on its requests. The Respondent, instead of doing its duty, wanted to get rid of its accountability.
5. The Respondent was raising the question as to why the Petitioner was following up the case after 10½ years. As a matter of fact, the Petitioner had now two well educated sons, who were fully aware, so, they were able and were following up the case of the Petitioner on its behalf though the Petitioner tried its best on its own to pursue the matter with the Respondent-PSPCL, but in vain.
6. The Forum ordered refund for partial/nominal amount, but not the whole amount that originally belonged to the Petitioner. This Court could make comparison between consumption of old and new Energy Meter which would show that the old Energy Meter of the Petitioner was running more than 55% fast and the Petitioner had paid Rs 1,50,000/- from 04/2008 to the Respondent for its negligence for not providing service to the Petitioner in time.
7. The Respondent, in its written statement, had mentioned about refund as per Regulation 21.5.1(a) of SupplyCode-2014 for last 6 months i.e. 3 cycles, but the Petitioner did not agree with the said refund. This Court could check comparison between billed amount for July 2018 (Rs 14090/-) and that of July 2019 (Rs 6940/-) as per which, there was huge difference between these two energy bills, then, it need to clarify as to how a refund of the amount of Rs 4486/-, was due and justified.
8. The Respondent had objected that by the Petitioner did not challenge its Energy Meter second time when the Petitioner installed the Air-conditioner, it meant that the Petitioner was satisfied with the running of the Energy Meter as per version of the Respondent. But it was not true because the Petitioner got checked its electrical wires, inverter etc. for any electricity earth or any fault.
9. The account of the Petitioner may be overhauled for the period of 6 months before 23.10.2018, on the basis of energy consumption of corresponding period of previous year as per Regulation 21.5.2(a) of the Supply Code-2014 by treating the Energy Meter as defective.
10. An amount of Rs 120/-deposited vide BA-16 No.269/81363 dated 04.04.2008 and Rs 120/- deposited vide BA-16 No.19/50712 dated 13.09.2018,for challenging the working of Energy Meter be also refunded to the Petitioner.
11. The amount of Rs 10,000/- awarded as compensation by the Forum be increased and paid to the Petitioner and the said amount be recovered from the delinquent Officer/official responsible for not providing the service to the Petitioner, posted as on 04.04.2008, as per Standards of Performance.
12. **Submissions of the Respondent:**

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

1. The Petitioner was having a Domestic Supply (DS) category connection initially with sanctioned load of 1.780 kW.
2. The working of Energy Meter was challenged by the Petitioner on 04.04.2008 by depositing the prescribed fee of Rs 120/- vide BA-16 No.269/81363 dated 04.04.2008. Accordingly, MCO No.173/67120 dated 04.04.2008 was issued by the Sub Divisional Office but the said Energy Meter was not replaced at that time.
3. The Petitioner again challenged the working of the Energy Meter on 13.09.2018 by depositing Rs.120/- vide BA-16 No.19/50712 dated 13.09.2018.
4. The Energy Meter of the petitioner was replaced vide MCO No.83/36067 dated 25.09.2018 by the DS Sub Divisional Office City, Lehragaga. The removed Energy Meter was sent for checking to M.E. Laboratory, Sangrur, where the accuracy of the Energy Meter was found beyond permissible limits after checking vide Challan No. 64 dated 23.10.2018.
5. The account of the Petitioner was overhauled for the last 3 cycles under Regulation 21.5 of Supply Code-2014 and refund of Rs.4486/- was given to the Petitioner whereas the Petitioner was demanding refund as per bills paid w.e.f. 04.04.2008. The said claim of the Petitioner was not justified, as the Petitioner had got extended load of its connection from 1.780 kW to 3.533 kW on 19.3.2018 vide BA-16 No.364/50308 dated 19.03.2018.
6. If the Petitioner was having any complaint regarding fast running of its Energy Meter, then it should have intimated accordingly at the time of applying for extension of its load it in the Sub Divisional Office. It appeared that Petitioner was satisfied with the working of its Energy Meter at the time of applying for extension of its load. As such, the claim for refund of bills of amounts paid from 04.04.2008 onwards was not justified.
7. Thereafter, the Petitioner filed a Petition before the CGRF, Patiala who decided the case vide order dated 31.07.2019 (Page 1, Page 1).
8. In compliance to the decision dated 31.07.2019 of the CGRF, Patiala, the account of the Petitioner was overhauled for 6 months preceeding 23.10.2018 on the basis of energy consumption of corresponding period of previous year and refund of Rs 4,486/- was given to the Petitioner vide SCA No.11-29-85.
9. Refund of Rs.120/- deposited as Meter Challenge Fee on 04.04.2008 and Rs 120/- again deposited on 13.09.2018 challenging the working of the Energy Meter was given to the Petitioner vide Sundry No.11-29-85 and Sundry No.09-40-85 respectively.
10. In addition, an amount of Rs 10,000/- as compensation was paid to the Petitioner vide Sundry No.09-40-85 which was deposited by Sh.Metha Ram (who was posted as JE at that time and had since retired) vide BA -16 No.41/51536 dated 10.09.2019 in compliance to the order of the CGRF, Patiala. In this way, the order of the CGRF, Patiala had been complied with, but the Petitioner was not satisfied and filed an Appeal in this Court against the decision of the Forum.
11. As the Appeal was without merit, the same may be dismissed.

**4.** **Analysis:**

The issue requiring adjudication is the legitimacy of the plea of the Petitioner for refunding the amounts of bills paid during the period from 04/2008 to 11/2008 and payment of additional compensation by the delinquent official of the respondent to deficiency in service.

*The points emerging in the case are deliberated and analysed as under:-*

1. During the course of hearing, the Petitioner’s Representative’s (PR) reiterated the submissions made in the Appeal preferred by the Petitioner (father of the PR) and emphasised that the Forum had not given full relief and decided to overhaul the account of the Petitioner for a period of six months immediately preceeding the date of replacement of the Energy Meter (which was challenged on 13.09.2018) despite the fact that the consumption of the disputed Energy Meter was 55% more than that recorded by the Energy Meter installed on 25.09.2018. PR requested that refund of the amount paid from 0/2008 onwards may accordingly be given by deducting the consumption recorded from 04/2008 onwards by 55%.

I find from the report dated 23.09.2008 of the M.E Laboratory where by accuracy of the disputed Energy Meter was beyond permissible limit. I also find that M.E Laboratory did not check the percentage of fastness at different loads and Power Factor and declared the said Energy Meter as defective.

I observe from the perusal of consumption data placed on record of this Court that consumption recorded by the newly installed Energy Meter (on 25.09.2018) from 01/2019 to 05/2019 was 858 kWh units which was less than that recorded by the disputed Energy Meter during corresponding period of previous year (01/2018 to 05/2018) i.e. 1410 kWh units.

I also observe that the Petitioner failed to bring any evidence on record of this Court to prove its contention that after challenging the working of the Energy Meter on 04.04.4008, it had represented to the Petitioner in writing that the Energy Meter was not got checked at site or in M.E Laboratory instead, the Petitioner continued to pay the energy bills issued to it till challenging the same on 23.09.2018 and that too after receipt of energy bill in 07/2018 subsequent to release of extension in load on 19.03.2018. As the Petitioner followed up the matter with the Respondent immediately after deposit of Meter Challenge Fee on 04.04.2018, the dispute would not have arisen.

In view of the above, the Forum rightly decided to issue direction for overhauling the account of the Petitioner for a period of 6 months immediately preceeding the date of replacement of Energy Meter on 25.09.2018 on the basis of energy consumption of corresponding period of previous year as per provisions contained in Regulation 21.5.2(a) of Supply Code-2014.

I find that the Respondent, in its reply to the Appeal and also during course of hearing, submitted that order dated 31.07.2019 in this report had since been implemented and a sum of Rs 4,486/- was refunded to the Petitioner vide SCA No. 11-29-86.

1. The Petitioner is required to be paid compensation subject to a maximum of Rs 5000/- for deficiency in service, under Standard of Performance, in terms of provisions of Regulation 21.4(b) of Supply Code-2007 as the Respondent failed to get the disputed Energy Meter (challenged by the Petitioner on 04.04.2008) checked either at site or in M.E Laboratory. The decision of the forum to award compensation of Rs 10,000/- arbitrarily to the Petitioner which was not based on provisions contained in Supply Code-2007. Whereas, as per Commercial Circular No.25/2012 dated 22.08.2012, issued, as per the approval of Hon’ble PSERC, a new clause 4 to Annexure 5 of Supply Code-2007 was added providing for maximum limit of compensation of Rs 5,000/-.

**5. Conclusion**:

From the above analysis, it is concluded that

1. The Petitioner failed to bring any evidence on record to prove the legitimacy of its contention that the Energy Meter installed at its premises remained defective throughout the period of 04/2018 to 11/2018 and that it had submitted any representation in this regards. In the office of the Respondent, the Petitioner challenged the working of the Energy Meter for the first time on 04.04.2008 but did not ask in writing from the Respondent about the results of checking of the said Energy Meter and continued to make payment of energy bills received thereafter. The Petitioner challenged the working of the Energy Meter only when it received the bill for 07/2018 issued after release of extension in load on 19.03.2008.

Besides, the Forum correctly observed that energy consumption of the Petitioner during the period of 01/2019 to 05/2019 (i.e. after replacement of disputed Energy Meter on 25.09.2018) was 858 kWh units which was less than 1410 kWh units recorded during 01/2018 to 05/2018 i.e. corresponding period of previous. Accordingly, the Forum, after taking into consideration the fact that the Energy Meter was found defective during checking on dated 23.10.2018 by the M.E Laboratory, rightly decided to issue directions for overhauling the account of the Petitioner for six months immediately preceeding the date of replacement i.e 23.10.2018 on the basis of consumption of the corresponding period of previous year in terms of provisions contained in Regulation 21.5.2(b) of Supply Code-2014, the decision of the Forum in this respect has since been implemented.

1. The Petitioner is required to be paid compensation subject to a maximum of Rs 5000/- for deficiency in service, under Standard of Performance, in terms of provisions of Regulation 21.4(b) of Supply Code-2007 as the Respondent failed to get the disputed Energy Meter (challenged by the Petitioner on 04.04.2008) checked either at site or in M.E Laboratory. The decision of the forum to award compensation of Rs 10,000/- arbitrarily to the Petitioner which was not based on provisions contained in Supply Code-2007. Whereas, as per Commercial Circular No.25/2012 dated 22.08.2012, issued, as per the approval of Hon’ble PSERC, a new clause 4 to Annexure 5 of Supply Code-2007 was added providing for maximum limit of compensation of Rs 5,000/-.

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

**As a sequel of above discussions, the order dated 31.07.2019 of the CGRF, Patiala in Case No. CGP-181 of 2019 is modified in terms of conclusion arrived at in Para 5 above. Accordingly, Respondent is directed to recover the difference of compensation amounting to Rs 5,000/- without interest from the Petitioner in subsequent energy bills.**

**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)

November 14, 2019 Lokpal (Ombudsman),

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