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

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

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

 **APPEAL NO. 54/2020**

**Date of Registration : 11.11.2020**

**Date of Hearing : 07.12.2020**

**Date of Order : 10.12.2020**

**Before:**

**Er. Gurinder Jit Singh,**

**Lokpal (Ombudsman), Electricity, Punjab**.

**In the Matter of:**

Manjit Singh,

House No. 792,

Phase-3B1, Mohali.

**Contract Account Number 3000168655**  ...Appellant

Versus

Addl. Superintending Engineer,

DS Division (Special),

PSPCL, Mohali.

 ...Respondent

**Present For:**

Appellant : Sh. Jaspreet Singh,

Appellant’s Representative (AR).

Respondent : 1. Er. Gurpreet Singh Sandhu,

 Addl. Superintending Engineer,

DS Division (Special),

PSPCL, Mohali.

 2. Er. Mohit Nagpal,

Assistant Executive Engineer/Commercial-2,

DS Division (Special),

PSPCL, Mohali.

Before me for consideration is an Appeal preferred by the Appellant against the decision dated 11.03.2020 of the Consumer Grievances Redressal Forum (Forum), Patiala in Case No. CGP-47 of 2020, deciding that:

*“The account of the petitioner be overhauled for a period of 180 days for the period 02.07.18 to the date of replacement of meter 01.01.19 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.*

*No surcharge/ interest be levied to the petitioner for the same.”*

**2*.* Registration of the Appeal**

A scrutiny of the Appeal and related documents revealed that the Appeal was received in this Court on 11.11.2020 i.e. after more than one month of receipt of the decision dated 11.03.2020 of the CGRF, Patiala in Case No. CGP-47 of 2020. The Appellant’s Representative also submitted an application alongwith the Appeal giving reasons for delay in filing the Appeal in this Court. The Appellant also submitted copy of receipt dated 11.11.2020 for ₹ 40,000/- as an evidence of deposit of more than 40% of the disputed amount with the PSPCL. The Appellant deposited the above amount on the basis of issue of bill (corrected/issued after decision of the Forum) dated 02.11.2020 for ₹ 93,508/-. The Appellant did not receive revised notice for payment of the disputed amount of the bill, as per decision of the Forum, from the Respondent. However, the Appeal was registered and copy of the same was sent to the Addl. SE/DS Special Division, PSPCL, Mohali for sending written reply/parawise comments with a copy to the office of the CGRF, Patiala under intimation to the Appellant vide letter bearing numbers 1094-1096/OEP/A-54/2020 dated 11.11.2020.

**3.** **Proceedings**

With a view to adjudicate the dispute, a hearing was fixed in this Court on 07.12.2020 at 11.00 AM and an intimation to this effect was sent to both the sides vide letter nos. 1154-55/OEP/A-54/2020 dated 02.12.2020. As scheduled, the hearing was held on 07.12.2020 in this Court, on the said date and time. Copies of the minutes of the proceedings were sent to the Appellant and the Respondent vide letter bearing numbers 1172-73/OEP/A-54/2020 dated 07.12.2020.

**4. Condonation of Delay**

During hearing on 07.12.2020, the issue of condoning of delay in filing the Appeal beyond stipulated period was taken up. The Appellant’s Representative submitted that after receipt of the decision dated 11.03.2020 of the CGRF, Patiala on 15.03.2020, the Appellant had visited the office of the Respondent on 18.03.2020 but due to COVID-19 pandemic conditions, the concerned staff was not available. Thereafter, the office remained closed for two months. After opening of the office, the Appellant again met the SDO in his office for issuing revised demand notice but the Appellant had not given the notice so far. The Appellant did not know the amount to be deposited for filing the Appeal. The Appellant had been harassed for the last 7 months and now he had been asked to approach this Court. Finally, the Appellant deposited ₹ 40,000/- as the requisite 40% amount on 11.11.2020 after issue of bill dated 02.11.2020. The Appellant requested for condoning of delay in filing the Appeal which was beyond his control.

I find that the Respondent did not object to the condoning of the delay in filing the Appeal in this Court either in its written reply or during hearing in this Court.

In this connection, it is relevant to peruse Regulation 3.18 of PSERC (Forum and Ombudsman) Regulations, 2016 which reads as under:

*“No representation to the Ombudsman* shall lie unless:

*(ii) The representation is made within one month from the date of receipt of the order of the Forum.*

*Provided that the Ombudsman may entertain a representation beyond one month on sufficient cause being shown by the complainant that he/she had reasons for not filing the representation within the aforesaid period of one month.”*

It is observed that non condoning of delay in filing the Appeal would deprive the Appellant of the opportunity required to be afforded to defend the case on merits. Therefore, with a view to meet the ends of ultimate justice, the delay in filing the Appeal in this Court beyond the stipulated period was condoned and the Appellant’s Representative was allowed to present the case.

**5.** **Submissions made by the Appellant and the Respondent**

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

1. **Submissions of the Appellant**

**(a) Submissions made in the Appeal.**

The Appellant made the following submissions in his Appeal for consideration of this Court:

1. The Appellant was having a Domestic Supply Category connection, bearing Account No. 3000168655 with sanctioned load of 14.96 kW.
2. The meter installed in the premises of the Appellant had jumped and that he had received a bill of ₹ 48,00,000/-. The said bill had accumulated to the tune of ₹ 1,32,50,260/- by adding surcharge/interest thereon.
3. The Appellant filed a case before the CGRF, Patiala, who directed, in its decision, to deposit the amount on average basis for the last 6 months. He was not satisfied with the decision of the Forum.
4. The meter of the Appellant was replaced within 3 months and he had deposited the average bill for 3 months.
5. The Appellant should not be billed for 6 months as he had been depositing the amount of the bills regularly on monthly basis.
6. When the meter of the Appellant had gone defective, he had deposited the bill on average basis.
7. In view of the submissions made above, the Appellant requested to allow his Appeal at the earliest.

**(b) Submission during hearing**

During hearing on 07.12.2020, the Appellant reiterated the submissions made in the Appeal and prayed to allow the same.

1. **Submissions made by the Respondent**
2. **Submissions in written reply**

The Respondent, vide its Memo No. 9263/ DB-86 dated 01.12.2020, submitted the following written reply for consideration of this Court:

1. A Domestic Supply Category connection, bearing Account No. 3000168655 with sanctioned load of 14.96 kW had been running at the residence of the Appellant.
2. The Appellant was served with a bill for the period 04.09.2018 to 05.10.2018 for 31 days for consumption of 846 units (difference of old reading 62844 and new reading 63690) for ₹7,620/-. The same was deposited by the Appellant.
3. The Appellant challenged the functioning of the meter on 16.12.2018 after depositing meter challenge fee of ₹ 450/-. As such, the meter of the Appellant was changed vide Device Replacement Application No. 10007289545 dated 26.12.2018 effected on 01.01.2019 at final reading of 600198 kWh.
4. The challenged/removed meter was sent to ME Lab, Ropar and after checking of the meter, ME Lab, Ropar had issued letter No. 05 dated 10.02.2019 and as per the report of the Lab, Red phase of the Meter was found dead. The pulse was not appearing on the Red phase of the meter but the current on the outgoing side was appearing. The accuracy of the Meter was found (-) 33%.
5. The bill under SAP system for 536518 units for the period 05.10.2018 to 26.04.2019 (203 days) for ₹ 81,71,250/- was issued on 28.11.2019 to the Appellant. This consumption of 536518 units included 536508 units (difference of old reading 63690 and new reading 600198) of old/challenged meter and 10 units of new meter. Further, sundry amount and arrear was also added in this bill. The Appellant did not deposit this bill.
6. Thereafter, the bill under SAP for the period 26.04.2019 to 27.11.2019 on ‘N’ code for 215 days for 568233 units (having old reading 10 and new reading 568243) for ₹ 1,32,50,260/- was issued on 28.11.2019. The Appellant did not deposit this bill and filed a petition before the Consumer Grievances Redressal Forum, Patiala in January, 2020.
7. The Appellant had deposited ₹ 50,000/- on 18.12.2019 and again ₹ 50,000/- on 19.12.2019. Therefore, N code bill on the basis of actual consumption for the period 26.04.2019 to 04.12.2019 for 222 days for 11161 units (old reading 10 and new reading 11171) after reversal was issued for ₹ 83,96,180/- and this bill included the amount of sundry charges and arrears.
8. The case of the Appellant was considered by the Forum and as per its decision, the account of the Appellant was overhauled by AEE/Comml.-1 S/D, Mohali and refund of ₹ 90,70,145/-, was adjusted in its account. Now, a sum of ₹ 60,450/- was outstanding against the Appellant. The Appellant had not agreed to this bill and had filed the present Appeal before this Court.

**(b) Submission during hearing**

At the start of hearing on 07.12.2020, the attention of the Respondent was invited to letter nos. 1094/OEP/A-54/2020 dated 11.11.2020, 1137 dated 25.11.2020 and 1164 dated 04.12.2020 requesting to confirm whether the requisite 40 % of the disputed amount (after the decision of the Forum) had been deposited by the Appellant. In response, the Respondent intimated that the Appellant had deposited ₹ 40,000/- on 11.11.2020 and this amount was more than 40% of the requisite amount for filing Appeal in this Court. Thereafter, the Respondent reiterated the submissions made in its written reply and prayed to decide the same.

**6. Analysis and Findings**

The issue requiring adjudication is the legitimacy of overhauling the account of the Appellant for a period of 180 days from 02.07.2018 to 01.01.2019 as per applicable regulations.

*My findings on the points emerged, analysed and deliberated are as under:*

1. As per material on record, the Appellant was having a Domestic Supply Category Connection with sanctioned load of 14.96 kW. The Appellant was served with a bill for the period 04.09.2018 to 05.10.2018 for 31 days for consumption of 846 units (difference of old reading 62844 and new reading 63690) for ₹ 7,620/-. The same was deposited by the Appellant. Apprehending that the Energy Meter installed at its premises had gone defective, the Appellant challenged the functioning of the meter on 16.12.2018 after depositing meter challenge fee of ₹450/-. As such, the meter of the Appellant was changed vide Device Replacement Application No. 10007289545 dated 26.12.2018 effected on 01.01.2019 at final kWh reading as 600198.
2. The challenged/removed Energy Meter was sent to M.E. Lab., Ropar, vide Store Challan No. 05 dated 10.02.2019 whereby, it was reported that:

“ਇਹ ਮੀਟਰ ਟੈਸਟ ਬੈਚ ਤੇ ਲਗਾ ਕੇ ਚੈੱਕ ਕੀਤਾ ਗਿਆ। ਮੀਟਰ R ph ਤੇ ਡੈੱਡ ਪਾਇਆ ਗਿਆ। ਮੀਟਰ ਦੀ ਰੈੱਡ ਫੈਸ ਤੇ ਪੱਲਸ ਨਹੀ ਆ ਰਹੀ, ਪਰੰਤੂ ਆਊਟ ਗੋਇੰਗ ਤੇ ਕਰੰਟ ਕੱਡ ਰਿਹਾ ਹੈ। ਮੀਟਰ ਦੀ ਐਕੁਰੇਸੀ (-33 %) ਪਾਈ ਗਈ ।”

1. The Respondent stated that the Appellant was served with a bill for the period 04.09.2018 to 05.10.2018 for 31 days for consumption of 846 units (difference of old reading 62844 and new reading 63690) for ₹ 7,620/-. The same was deposited by the Appellant. Subsequently, a bill under SAP system for 536518 units for the period 05.10.2018 to 26.04.2019 for ₹ 81,71,250/- was issued on 28.11.2019 to the Appellant. This consumption of 536518 units included 536508 units (old reading 63690 and new reading 600198) of old/challenged meter and 10 units of new meter. Further, sundry amount and arrear was also added in this bill. The Appellant did not deposit this bill. Thereafter, the bill under SAP for the period 26.04.2019 to 27.11.2019 for 215 days for 568233 units (having old reading 10 and new reading 568243) on “N” code for ₹ 1,32,50,260/- was issued on 28.11.2019. The Appellant had deposited ₹ 50,000/- on 18.12.2019 and again ₹ 50,000/- on 19.12.2019. Thereafter, bill on the basis of actual consumption for the period 26.04.2019 to 04.12.2019 for 222 days for 11161 units (old reading 10 and new reading 11171) after reversal was issued for ₹ 83,96,180/- and this bill included the amount of sundry charges and arrears.
2. The consumption pattern of the Appellant’s connection for the years 2015 to 2018 is tabulated below:

|  |  |  |  |
| --- | --- | --- | --- |
| 2015 | 2016 | 2017 | 2018 |
| Period | Con. | Status | Period | Con. | Status | Period | Con. | Status | Period | Con. | Status |
| 30.01.15 to 05.03.15 | 267 | O | 08.12.15 to 04.01.16 | 430 | O | 01.12.16 to 02.01.17 | 649 | O | 07.12.17 to 02.01.18 | 629 | O |
| 05.03.15 to 01.04.15 | 204 | O | 04.01.16 to 04.02.16 | 1218 | O | 02.01.17 to 31.01.17 | 941 | O | 02.01.18 to 03.02.18 | 769 | O |
| 01.04.15 to 01.05.15 | 334 | O | 04.02.16 to 02.03.16 | 781 | O | 31.01.17 to 01.03.17 | 731 | O | 03.02.18 to 28.02.18 | 578 | O |
| 01.05.15 to 04.06.15 | 1723 | O | 02.03.16 to 31.03.16 | 524 | O | 01.03.17 to 31.03.17 | 660 | O | 28.02.18 to 02.04.18 | 663 | O |
| 04.06.15 to 02.07.15 | 1460 | O | 31.03.16 to 03.05.16 | 1569 | O | 31.03.17 to 09.05.17 | 1915 | O | 02.04.18 to 05.05.18 | 569 | O |
| 02.07.15 to 05.08.15 | 1159 | O | 03.05.16 to 02.06.16 | 2058 | O | 09.05.17 to 02.06.17 | 1547 | O | 05.05.18 to 02.06.18 | 433 | O |
| 05.08.15 to 03.09.15 | 885 | O | 02.06.16 to 29.06.16 | 1966 | O | 02.06.17 to 04.07.17 | 2178 | O | 02.06.18 to 02.07.18 | 754 | O |
| 03.09.15 to 03.10.15 | 939 | O | 29.06.16 to 29.07.16 | 1796 | O | 04.07.17 to 03.08.17 | 1797 | O | 02.07.18 to 04.08.18 | 1240 | O |
| 03.10.15 to 04.11.15 | 920 | O | 29.07.16 to 31.08.16 | 1860 | O | 03.08.17 to 02.09.17 | 1388 | O | 04.08.18 to 04.09.18 | 747 | O |
| 01.11.15 to 08.12.15 | 457 | O | 31.08.16 to 05.10.16 | 2041 | O | 02.09.17 to 03.10.17 | 1671 | O | 04.09.18 to 05.10.18 | 846 | O |
|  |  |  | 05.10.16 to 02.11.16 | 942 | O | 03.10.17 to 03.11.17 | 1158 | O | 05.10.18 to 01.01.19 | 536508 | N |
|  |  |  | 02.11.16 to 01.12.16 | 434 | O |  |  |  |  |  |  |

A perusal of the above details reveals that consumption during the period 05.10.2018 to 01.01.2019 is abnormal as compared to the consumption pattern during the period from 30.01.2015 to 05.10.2018 of the Appellant’s connection.

1. The Forum, after hearing both sides and perusing the evidence on record, ignored the abnormal consumption relating to the period 05.10.2018 to 01.01.2019 by treating the meter as defective. Therefore, the Forum decided to overhaul the account of the Appellant for 180 days prior to the date of replacement of the meter on 01.01.2019 in terms of provisions contained in Regulation 21.5.2 (a) of Supply Code 2014.
2. The Appellant’s representative, during hearing on 07.12.2020, contended that the account of the Appellant be overhauled for the actual period during which the meter remained defective and not for 180 days prior to replacement of the meter on 01.01.2019.

In this connection, it is worthwhile to peruse Regulation 21.5.2 (a) of Supply Code-2014 which reads as under:

*“21.5.2 Defective (other than inaccurate)/Dead Stop/Burnt/Stolen Meters*

*4The accounts of a consumer shall be overhauled/billed for the period meter remained defective/dead stop subject to maximum period of six months. In case of burnt/stolen meter, where supply has been made direct, the account shall be overhauled for the period of direct supply subject to maximum period of six month. The procedure for overhauling the account of the consumer shall be as under:]*

1. *On the basis of energy consumption of corresponding period of previous year.”*

It is observed that the above provision require overhauling of the account of the Consumer whose meter is found defective for a maximum period of six months on the basis of consumption of corresponding period of previous year and not for all the six months.
In the present case, the meter can be treated as defective from 06.10.2018 till its replacement on 01.01.2019 because the status of the meter was OK till 05.10.2018 as per consumption data supplied by the Respondent. Accordingly, it will be just and fair to overhaul the account of the Appellant for the period from 06.10.2018 to 01.01.2019 (date of replacement of meter under dispute) on the basis of consumption of corresponding period of the previous year i.e. 06.10.2017 to 01.01.2018 when the status of the meter was OK as per provisions contained in Regulation 21.5.2 (a) of Supply Code-2014.

1. The Respondent did not exercise necessary vigilance and prudence in not taking care to withhold the bill dated 28.11.2019 for ₹ 1,32,50,260/- which was quite abnormal/unusual considering the sanctioned load of the Appellant as 14.96 kW. Before issuance of such a bill, the Respondent should have tried to analyses the reasons for such an abnormal bill and taken appropriate remedial action to avoid harassment to the consumer.

**7.** **Decision**

As a sequel of above discussions, the order dated 11.03.2020 of the CGRF, Patiala in Case No. CGP-47 of 2020 is partly modified. It is held that the account of the Appellant shall be overhauled for the period from 06.10.2018 to 01.01.2019 on the basis of consumption of corresponding period of the previous year i.e. 06.10.2017 to 01.01.2018 when the status of the meter was OK as per provisions contained in Regulation 21.5.2 (a) of Supply Code-2014. Accordingly, the Respondent is directed to recalculate the demand and refund/recover the amount found excess/short, if any, after adjustments with surcharge/interest as per instructions of the PSPCL.

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

**9.** 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.

(GURINDER JIT SINGH)

December 10, 2020 Lokpal (Ombudsman)

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