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

 **ELECTRICITY, PUNJAB,**

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

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

**APPEAL NO. 37/2020**

 **Date of Registration : 14.08.2020**

 **Date of Hearing : 02.09.2020**

 **Date of Order : 02.09.2020**

**Before:**

 **Er. Gurinder Jit Singh,**

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

**In the Matter of:**

 Rakesh Lata Garg,

 House No. 440, Khalifa Bagh,

Dhuri Road, Backside Hero Motor Cycle Agency,

Sangrur.

**Contract Account Number: 3000710971**

 ...Appellant

Versus

Senior Executive Engineer,

DS Division, PSPCL,

Sangrur.

 ...Respondent

**Present For:**

Appellant : Sh. Subhash Kumar Garg

 Appellant’s Representative (AR).

Respondent : 1. Er. Varinder Deepak,

 Senior Executive Engineer,

 DS Division, PSPCL,

 Sangrur.

 2. Sh. Gurpreet Singh

 Revenue Accountant (RA).

 Before me for consideration is an Appeal preferred by the Appellant against the order dated 17.06.2020 of the Consumer Grievances Redressal Forum (Forum), Patiala in Case No. CGP-87 of 2020, deciding that:

*“The difference of 1932 units on account of meter reading detected in the ME lab as 23406 and billed to the petitioner upto 21474 is chargeable and recoverable from the petitioner. The difference of 1932 units during the disputed period with meter with meter reading as 21474 upto which petitioner was billed and with meter reading as 23406 as detected in ME Lab at the time of removal of meter be spread equally during the period 15.11.17 to 16.10.18 and notice issued vide memo No. 1567 dated 16.07.2019 be revised accordingly. The decision of the DDSC Sangrur Division, taken on 27.11.2019 is amended to that extent.*

*Further, no interest/surcharge be levied to the petitioner as correct bills were not issued.”*

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

In the present case, the Appellant’s Representative (husband of the Appellant) sent an application, vide e-mail on 29.07.2020, for redressal of grievance against the order dated 17.06.2020 of the Forum. He was advised telephonically to submit the Appeal after complying with the requisite requirements/procedure available on PSERC website for filing the Appeal in this Court. Accordingly, he sent the present Appeal to this Court vide e-mail dated 14.08.2020. Thus, the Appellant sent the Appeal (though not complete) to this Court for the first time on 29.07.2020 i.e. within one month of receipt of order dated 17.06.2020 delivered to the Appellant in the last week of June 2020. The Appellant had deposited a sum of ₹ 10,010/- vide CC Receipt No.213300215179 dated 04.08.2020 and supplied a copy of this receipt. Thus, the Appellant deposited more than the requisite 40 % of the disputed amount of ₹ 15,685/-. Accordingly, the Appeal was registered and a copy of the same was sent to the Senior Executive Engineer/DS Division, PSPCL, Sangrur for furnishing written reply/parawise comments and also to the office of the CGRF, Patiala for sending the case file under intimation to the Appellant vide this office letter nos.729-31/OEP/A-37/2020 dated 17.08.2020.

**3.** **Proceedings**

With a view to adjudicate the dispute, a hearing was fixed in this Court on 02.09.2020 at 12.00 Noon and intimation to this effect was sent to both the sides vide letter Nos.782-83/A-37/2020 dated 28.08.2020 sent by e-mail. As scheduled, the hearing was held on 02.09.2020 in this Court and was attended by the Representatives of both the sides.

**4. Submissions made by the Appellant and the Respondent**:

With a view to adjudicate the dispute, it is necessary to go through written submissions made in the Appeal by the Appellant and reply of the Respondent as well as oral submissions made by their respective representatives along with material brought on record by both the sides.

1. **Submissions of the Appellant**
2. **Submissions made in the Appeal**

The Appellant made the following submissions in the Appeal received in this Court on 14.08.2020 for consideration:

1. The Appellant was having a DS category connection installed at her residence i.e House No. 440, Khalifa Bagh, Dhuri Road, Backside Hero Honda Motor Cycle Agency, Sangrur. The sanctioned load of this connection, bearing Account No. 3000710971, was 2.94 kW.
2. The Appellant was surprised to receive an energy bill amounting to ₹ 17,130/- in 09/2019. This included Sundry Charges of ₹ 15,665/-.
3. The electric meter of the Appellant was declared defective unilaterally by the Meter Reader. The same was installed outside the premise in the month of January, 2018. The Respondent started charging the Appellant on average basis.
4. The Appellant requested the Respondent to replace the said Energy Meter immediately vide letter dated 27.03.2018.
5. The Respondent replaced the Energy Meter in the month of October, 2018 i.e. after 9 months and extra amount of ₹ 15,665/- was charged after about 12 months in the bill for September, 2019.
6. The electric meter of the Appellant was declared defective unilaterally by the Respondent without its knowledge. The said meter was not replaced even after her written request and personal visits to the office of the Respondent.
7. The Respondent charged extra amount of ₹ 15,665/- unilaterally without any fault on the part of the Appellant.
8. The concerned official of the Respondent did not bother to give justice to the Appellant and instead, concealed lapses on their part.
9. The Forum did not give justice to the Appellant and only justified the lapses on the part of the Respondent.
10. The judgment passed by the Forum was not acceptable to the Appellant and gross injustice had been done to the Appellant.
11. The Appeal may be allowed and justice be given to the Appellant.
12. It may not be possible to attend this Court personally. So, the decision imparted by this Court, after going through the details of the case, shall be acceptable to her (Appellant).
13. **Submissions in Rejoinder**

The Appellant’s Representative, vide e-mail dated 01.09.2020, sent a rejoinder to written reply of the Respondent. He stated that PSPCL neither involved the Appellant at the time of declaring the meter defective or at the time of change of meter or in the ME Lab and no meter reading was ever shown to the Appellant. Their decision was quite unilateral and not justifiable. As already submitted, the Deptt. started charging Bill’s on average basis without bothering to replace the meter despite the Appellant’s repeated and timely follow up.

1. **Submissions during Hearing**

During hearing, the Appellant’s Representative reiterated the submissions already made in the Appeal and rejoinder to written reply of the Respondent.

1. **Submissions of the Respondent**
2. **Submissions made in the Written Reply**

The Respondent, in its reply, made the following submissions for consideration of the Court:

1. The Energy Meter installed at the premise of the Appellant showed ‘D’ code for the first time on 16.01.2018. Thereafter, the said Energy Meter continued to display ‘D’ Code till 15.10.2018.
2. During the aforesaid period, the Appellant was charged energy consumption on LYSM basis.
3. The Energy Meter installed at the premise of the Appellant was replaced on 16.10.2019.
4. The removed Energy Meter was checked, vide Store Challan No. 110 dated 17.11.2018, in ME Lab. As per the checking report, its reading was 23,406 kWh.
5. Accuracy of the said disputed Energy Meter was not checked during checking in ME Lab.
6. The reading of Energy Meter of the Appellant was 19,999 kWh on 15.11.2017 when the Energy Meter’s status was ok i.e prior to 1/2018 when it started showing ‘D’ code.
7. The difference of readings of energy consumption worked out to 3,407 kWh. Out of these units, average of ‘D’ Code from 16.01.2018 to 15.10.2018, after deduction of 1,475 kWh, worked out to 1,932 kWh amounting to ₹ 15,685/- was charged vide Half Margin No. 14 dated 25.06.2019.
8. The Appellant represented to DLDSC for relief against the charged amount. After hearing, DLDSC upheld the amount charged as per its decision dated 27.11.2019.
9. Aggrieved, the Appellant approached the CGRF, Patiala in 02/2020 against the above decision of DLDSC.
10. After hearing, the Forum passed order dated 17.06.2020. As per this decision, the calculation of the amount charged and refunded are detailed below:

|  |  |  |  |
| --- | --- | --- | --- |
| Particulars | SoP(₹)  | ED+IDF+Octroi(₹) | Total(₹) |
| a) Amount Recoverable 10.01.2018 to 17.10.2018 for 3407 kWh | 20887 | 4070 | 24,957 |
| b) Bill as per ‘D’ Code 10.01.2018 to 17.10.2018 for 1475 kWh | 9462 | 1733 | 11,195 |
| c) Amount chargeable to the Appellant | 10925 | 2337 | 13,262 |
| d) Amount previously charged to the Appellant |  |  | 15,685 |
| e) Surcharge |  |  | 3,307 |
| f) Amount Refundable d+e-c |  |  | 5,730 |

After making refund to the Appellant as per above details, the Appellant deposited the whole amount found recoverable. Nothing was now due from the Appellant.

**5.** **Analysis and Findings**

The issue requiring adjudication is the legitimacy of the amount charged to the Appellant on account of difference of 1,932 units(kWh) due to meter reading detected in ME Lab as 23,406 units(kWh) and billed to the Appellant upto 21,474 units(kWh) without levy of surcharge and interest.

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

1. The dispute arose when meter reading of the Energy Meter installed at the premise of the Appellant (who was having a Domestic Supply Category connection with sanctioned load of 2.94 kW), was taken by the Meter Reader on 16.01.2018. At that time, Meter Reader recorded ‘D’ code of Energy Meter. Subsequently, the same status (D code) continued to be recorded as per readings taken upto 15.10.2018. In the meantime, Device Replacement order no. 100005401997 was issued on 12.02.2018 effected on 15.10.2018. During the period from 12.02.2018 to 15.10.2018, the Appellant was charged average of the consumption on LYSM basis by SAP system. The removed Energy Meter was checked, vide Store Challan No.110 dated 17.11.2018 in ME Lab, Sangrur which reported the final reading as 23,406 which matched with the final reading shown in the MCO effected on 15.10.2018. Accuracy of the removed Energy Meter was not checked as per checking report of ME Lab. Since the Appellant was earlier billed for upto reading of 21,474, the Audit Party charged her (Appellant) for the difference of 23406-21474=1932 kWh amounting to ₹ 15,685/- vide Half Margin No.14 dated 25.06.2019. As a result, the said amount of ₹ 15,685/- was charged under Sundries in the bill for 9/2019(for the period 09.07.2019 to 10.09.2019) amounting to ₹ 17,130/-. Aggrieved, the Appellant represented for relief to DLDSC which, in its meeting dated 27.11.2019, decided that the amount of ₹ 15,685/- charged to the Appellant was in order and recoverable. The Appellant was not satisfied with the above decision and filed a Petition in the office of the CGRF, Patiala in February, 2020. After hearing both the sides, the Forum passed order dated 17.06.2020 which has been challenged by filing the present Appeal.
2. The Respondent, in its reply sent vide letter no.7604 dated 27.08.2020, submitted written reply/parawise comments to the Appeal and stated that a sum of ₹ 5,730/- was refundable to the Appellant in view of the decision of the Forum. In the aforesaid letter it was also mentioned that accuracy of the removed Energy Meter was not checked as is evident from the checking report dated 17.11.2018 of ME Lab. Sangrur. A copy of the said reply of the Respondent was sent to the Appellant vide this office e-mail dated 28.08.2020 for filing rejoinder if any. In response, the Appellant sent an e-mail dated 01.09.2020 stating as under:

“This is with reference to your office letter dated 28.08.2020, I hereby submit my rejoinder to PSPCL letter dated 27.08.2020. I may submit here that PSPCL neither involved me at the time of declaring the meter defective or at the time of change of meter or at the ME Lab and no meter reading was ever shown to me. Their decision is quite unilateral and not justifiable. As already submitted, the Deptt started charging Bill’s on average basis without bothering to replace the meter despite my repeated and timely follow up. Submitted for your kind information and imparting justice to me.”

1. The Respondent was requested vide this office letter no.812/OEP/A-37/2020 dated 01.09.2020 (sent by e-mail) to send the consumption details of the disputed Energy Meter for five years preceeding the date of its replacement on 15.10.2018. In response, the Respondent sent the requisite details duly signed by the AE, DS Sub-division, PSPCL, Badrukhan on 01.09.2020. As per these details, the status of the disputed Energy Meter was ‘O’ during March, 2016 to November, 2017.
2. As per material on record, the Meter Reader noticed for the first time, while taking meter reading on 16.01.2018 that the Energy Meter was defective. The same status (‘D’ code) continued to be shown upto 15.10.2018. The said Energy Meter was replaced actually on 15.10.2018. Thus, there was a delay of about 9 months in replacement of the disputed Energy Meter. In the intervening period i.e from 16.01.2018 to 15.10.2018 (date of replacement), the energy bills were issued to the Appellant on LYSM by the SAP system. In this connection, Regulation 21.4.1 of Supply Code-2014 provides as under:

*“In case a consumer’s meter becomes defective/dead stop or gets burnt, a new tested meter shall be installed within the time period prescribed in Standards of Performance on receipt of complaint [or detection by the distribution licensee].”*

Para 3.1 of Annexure 1 to Supply Code-2014 provides Minimum Standards of Performance for replacement of Defective Meter and is reproduced below:

*“The distribution licensee shall inspect and check correctness of a meter within seven working days of receipt of a complaint or report by its authorized official/officer/representative. If the meter is defective (i.e. it is stuck up, running slow, fast or creeping), the distribution licensee shall replace the meter within ten working days of receiving the complaint.”*

I observe that the Respondent defaulted in ensuring timely replacement of the disputed Energy Meter installed at premise of the Appellant in contravention of the provision referred to above.

1. During the hearing on 02.09.2020, the Respondent, on being asked, intimated that the disputed Energy Meter was removed from site on 15.10.2018 in open/unsealed condition. Thereafter, the same was sent to ME Lab in the same condition on 17.11.2018 for checking. In the ME Lab, the disputed Energy Meter was found defective but accuracy of the same was not checked there.
2. From the above analysis, it is evident that the Energy Meter installed at premise of the Appellant displayed ‘D’ code for the period from 16.01.2018(the date of meter reading) to 15.10.2018(date of replacement). Further, the accuracy of this disputed Energy Meter was also not checked in ME Lab during checking dated 17.11.2018. As such, it was not just and fair to charge the Appellant for the difference of meter reading taken on 16.01.2018 (at the time of regular reading) and on 15.10.2018 (date of removal of Energy Meter) without ensuring/determining its accuracy in ME Lab during checking. As a result, the authenticity/genuineness of the final reading of the disputed Energy Meter reported by the ME Lab was thus not reliable. The disputed meter was Defective as per Store Challan No. 110 dated 17.11.2018. Hence, the provisions contained in Regulation 21.5.2 of Supply Code-2014 are relevant in the present context and are reproduced below:

 “*The 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 months. 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.*

*b) In case the consumption of corresponding period of the previous year as referred in para (a) above is not available, the average monthly consumption of previous six (6) months during which the meter was functional, shall be adopted for overhauling of accounts.*

*c)If neither the consumption of corresponding period of previous year (para-a) nor for the last six months (para-b) is available then average of the consumption for the period the meter worked correctly during the last 6 months shall be taken for overhauling the account of the consumer.*

*d)Where the consumption for the previous months/period as referred in para (a) to para (c) is not available, the consumer shall be tentatively billed on the basis of consumption assessed as per para-4 of Annexure-8 and subsequently adjusted on the basis of actual consumption recorded in the corresponding period of the succeeding year.*

*e)The energy consumption determined as per para (a) to (d) above shall be adjusted for the change of load/demand, if any, during the period of overhauling of accounts.”*

As a result, the account of the Appellant is required to be overhauled for a period of six months prior to the date of replacement of disputed Energy Meter i.e. 15.10.2018 on the basis of energy consumption for the corresponding period of the previous year when the disputed Energy Meter remained functional/OK i.e. on the basis of average of energy consumption recorded during 16.04.2017 to 15.10.2017. Surcharge/interest will be levied, if applicable, as per instructions of PSPCL.

**6.** **Decision**

As a sequel of above discussions, the order dated 17.06.2020 of the CGRF, Patiala in Case No. CGP-87 of 2020 is set-aside. It is held that the account of the Appellant shall be overhauled for a period of six months prior to the date of replacement of disputed Energy Meter i.e. from 16.04.2018 to 15.10.2018 on the basis of average of energy consumption for the corresponding period of the previous year ( i.e 16.04.2017 to 15.10.2017) in terms of provisions of 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 after adjustment, if any, with surcharge/interest if leviable as per instructions of PSPCL.

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

**8**. In case, the Appellant 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)

 September 02, 2020 Lokpal (Ombudsman)

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