

**COURT OF THE LOK PAL (OMBUDSMAN),  
ELECTRICITY, PUNJAB,  
PLOT NO. A-2, INDUSTRIAL AREA, PHASE-1,  
S.A.S. NAGAR (MOHALI).**

**APPEAL No. 41/2021**

**Date of Registration : 19.04.2021**

**Date of Hearing : 05.05.2021**

**Date of Order : 12.05.2021**

**Before:**

**Er. Gurinder Jit Singh,  
Lokpal (Ombudsman), Electricity, Punjab.**

**In the Matter of:**

M/s. Red Apple Hotel,  
Opp. Military Station, Dasmesh Nagar,  
Patiala Road, Sangrur-148001.

**Contract Account Number: 3002538243**

...Appellant

Versus

Additional Superintending Engineer,  
DS Division, PSPCL,  
Sangrur.

...Respondent

**Present For:**

Respondent : Er. R.K. Goyal,  
Additional Superintending Engineer,  
DS Division, PSPCL,  
Sangrur.

Before me for consideration is an Appeal preferred by the Appellant against the decision dated 02.03.2021 of the Consumer Grievances Redressal Forum (Forum), Patiala in Case No. CGP-36 of 2021, deciding that:

*“The excess amount charged on account of levy of Voltage Surcharge in the bills dated 04.04.16 to 26.03.20 be refunded to the petitioner without any interest and after pre-audit.”*

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

A scrutiny of the Appeal and related documents revealed that the Appeal was received in this Court on 19.04.2021 i.e. after stipulated period of thirty days of receipt of the decision dated 02.03.2021 of the CGRF, Patiala in Case No. CGP-36 of 2021 by the Appellant on 03.03.2021 through e-mail. The Appellant, sent the Appeal (not in format prescribed for the purpose) vide e-mail on 01.04.2021 and he was informed about short comings in the Appeal. The Appellant submitted the Appeal on 19.04.2021 in the format prescribed but did not give any application for condoning of delay despite being advised vide e-mail dated 05.04.2021 to send the Appeal in the prescribed format. Thereafter, on being reminded, he submitted an application dated 30.04.2021 in this Court for condoning of

delay in filing the Appeal. The Appellant was not required to deposit the requisite 40% of the disputed amount as relief claimed was on account of payment of interest on the voltage surcharge refunded as per orders of the Forum. Therefore, the Appeal was registered and copy of the same was sent to the Addl. Superintending Engineer/ DS Division, PSPCL, Sangrur for sending written reply/parawise comments with a copy to the office of the CGRF, Patiala under intimation to the Appellant vide letter nos. 634-636/OEP/A-41/2021 dated 19.04.2021.

### **3. Proceedings**

With a view to adjudicate the dispute, a hearing was fixed in this Court on 05.05.2021 at 12.00 Noon and an intimation to this effect was sent to both the sides vide letter nos. 704-05/OEP/A-41/2021 dated 29.04.2021. As scheduled, the hearing was held in this Court on the said date. The Appellant did not attend the Court and sent an e-mail received at 12.14 PM (before start of hearing) stating that he was not able to attend the Court for hearing due to COVID Pandemic. In its representation, the Appellant submitted written argument reiterating broadly the submissions made in its Appeal and requested to consider the averments made in the Appeal and representation sent vide aforesaid e-mail.

The Addl. SE, DS Division, PSPCL, Sangrur attended the Court for participation in the proceedings and was given a copy of representation sent by the Appellant to this Court by e-mail. Deliberations were held and order was reserved. Copies of the minutes of the proceedings were sent to the Appellant and the Respondent vide letter nos. 742-43/OEP/A-41/2021 dated 05.05.2021.

#### **4. Condonation of Delay**

At the beginning of hearing on 05.05.2021, the issue of condoning of delay in filing the Appeal in this Court was taken up. The Appellant, on being reminded, sent an application dated 30.04.2021 stating that the Appellant had sent the Appeal in this Court on 1<sup>st</sup> of April, 2021 by e-mail. On 5<sup>th</sup> of April, 2021 the Appellant had received an e-mail from this Court in which it was directed to file this Appeal on specific format which was available on PSERC website. Accordingly the Appellant submitted the Appeal (complete) in this Court on 19.04.2021. Thus, keeping in view the above, the Appellant requested that delay, if any, in filing the Appeal may be condoned. The Respondent did not object to the request of the Appellant for condoning of delay in filing the Appeal in this Court.

In this connection, I have gone through 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 30 days from the date of receipt of the order of the Forum.*

*Provided that the Ombudsman may entertain a representation beyond 30 days on sufficient cause being shown by the complainant that he/she had reasons for not filing the representation within the aforesaid period of 30 days.”*

The Court noted that the present Appeal was submitted in this Court on 19.04.2021 i.e. after about 15 days beyond the stipulated period of 30 days of receipt of order dated 02.03.2021 of the Forum. It was observed that refusal to condone the 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 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 Appellant and the Respondent alongwith material brought on record by both the sides.

### **(A) Submissions of the Appellant**

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

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

- (i) The Appellant was having a Non Residential Supply Category Connection, bearing account No. 3002538243, with sanctioned load of 268.68 kW.
- (ii) The Forum had not decided the Petition of the Appellant to its satisfaction. As such, the Appeal had been filed in this Court.
- (iii) The Forum had acknowledged the Petition of the Appellant partially and allowed reimbursement of wrongly charged Voltage Surcharge in its electricity bills from 03/2016 to 03/2020 without any interest on self-assessed basis. The Respondent had charged the surcharge on late payment of electricity bills as per the tariff orders from the Appellant.

- (iv) The excess Voltage Surcharge was levied on the Appellant due to the fault of the employees of the Respondent. The Appellant was surprised that every time, in spite of compliance of the instructions of the Respondent, the billed amount seemed to be unjustified as per consumption of electricity by the Appellant. Nobody gave proper reply to the excess bill raised by the Respondent but some known person told the Appellant that extra amount was being charged from the Appellant on account of Voltage Surcharge and on clarification from the Respondent office, it corrected the mistake in respect of future electricity bills and the Appellant was told to get the refund of excess amount from the Forum instead of solving the dispute at its own end.
- (v) The Appellant had prayed for reimbursement of extra amount charged on account of Voltage Surcharge through the bills from 03/2016 to 03/2020 alongwith interest as per Instruction No. 35.1.3 of the Electricity Supply Code or other clauses best known to this Court.

**(b) Submissions made vide e-mail on the date of hearing**

The Appellant did not attend the Court on the scheduled date of hearing on 05.05.2021 and sent an e-mail received at 12.14 PM stating as under:

“Due to Covid Situation we are unable to attend the Hon’ble court in this appeal case which is fixed on May 5, 2021.

In continuation to our appeal/petition submitted before your Hon’ble court against the decision of Forum Patiala, the following points shall also be considered before deciding the matter of the petition.

- (i) The inflated bills raised by PSPCL from 4/2016 to 3/2020 shall be settled as per provisions of clause 35.1.3 of supply code 2014 namely Disputed Electricity bills.
- (ii) The PSPCL has raised/ collected wrongly sum of money from us in the electricity bills from 4/2016 to 3/2020 amounting to Rs. 1167930 shall be treated as advance payment of Electricity bills and the said amount can be refunded/adjusted from our pending bill/current electricity bills as per clause 31.8 of supply code 2014 namely Advance Payment of Electricity bills.
- (iii) The PSPCL has its own adjusted the pending electricity bills from the outstanding refundable amount without any exemption of interest on late payment which is against the provisions of Supply Code-2014 Clause 35.1.3.

Keeping in view of the covid disease we in person can not attend your Hon’ble court and request your good self to



consider our appeal/petition alongwith the written arguments to decide the matter of the appeal and written argument.”

**(B) Submissions of the Respondent**

**(a) Submissions in written reply**

The Respondent submitted the following written reply for consideration of this Court:

- (i) A Non Residential Supply category connection, having Account No. 3002538243, was running in the name of Appellant with sanctioned load of 268.680 kW and Contract Demand (CD) as 200 kVA. Earlier to it, the Appellant had got its load enhanced from 94.680 kW to 268.680 kW on 10.09.2015.
- (ii) After the enhancement of the load by the Appellant, its connection was converted into HT connection. The Voltage Surcharge was being levied through the bills from 04.04.2016 to 26.03.2020 whereas it was not chargeable from the Appellant because the connection was on HT Supply.
- (iii) The Appellant had claimed refund of the said amount of Voltage Surcharge and filed a petition before the Forum who, after hearing, passed order dated 02.03.2021.

- (iv) As per the decision of the Forum, refund of ₹ 11,67,930/- had been allowed by the Respondent to the Appellant but the Appellant had claimed the said amount of refund alongwith interest and had filed the Appeal in this Court.
- (v) As per the decision of the Forum, the Appellant was entitled to the refund of the amount, which was charged from it, in excess, on account of Voltage Surcharge and the refund of the said amount had been allowed to the Appellant as per the decision of the Forum.
- (vi) The Appellant request for interest as per Regulation No. 35.1.3 of Supply Code-2014 may be decided by this Court after due consideration.

**(b) Additional submissions of the Respondent**

In response to the information sought by e-mail dated 03.05.2021, the Respondent submitted vide letter no. 4286 dated 04.05.2021 as under:

- (i) The Appellant submitted letter dated 30.09.2020 to the AEE, DS Sub-urban Sub-division, Sangrur for refund of surcharge levied in excess in the bills issued to it. The Appellant was informed to file its case in the Forum.

- (ii) As per order dated 02.03.2021 of the Forum, a refund of ₹ 11,67,930/- was given through Sundry to the Appellant. Apart from this, no other application for payment of interest was submitted by the Appellant in the Sub Divisional Office.
- (iii) The Appellant did not deposit the bills from 01/2020 onwards with PSPCL. Therefore, the amount charged to the Appellant as Late Payment Surcharge was justified and recoverable.
- (iv) The request of the Appellant for allowing interest as per Regulation 35.1.3 of Supply Code-2014 may be decided by the Court after due consideration.

**(c) Submission during hearing**

Before the start of hearing on 05.05.2021, a copy of representation sent by the Appellant vide e-mail dated 05.05.2021 was given to the Respondent. The Respondent, on being directed during hearing, submitted a copy of representation dated 30.09.2020 (received in Respondent's office on 01.10.2020) for consideration of the Court. While making oral submissions, the Respondent contested the averments made by the Appellant in its Appeal and representation dated 05.05.2021. The Respondent reiterated the submissions made by it in the written reply. The Respondent had also requested for dismissal of the Appeal of the Appellant.

## 6. Analysis and Findings

The issue requiring adjudication is the legitimacy of the prayer of the Appellant for refund of extra amount charged on account of Voltage Surcharge in its bills dated 04.04.2016 to 26.03.2020 alongwith interest as per applicable regulations.

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

- (i) As per evidence on record, sanctioned load of the Appellant's connection was enhanced from 94.680 kW to 268.680 kW vide MCO No. 42/105326 dated 11.05.2015 effected on 10.09.2015. After the enhancement of the load by the Appellant, its connection was converted into HT connection. It is observed that the Voltage Surcharge was levied through the bills dated 04.04.2016 to 26.03.2020. The Court was apprised by the Respondent that the Appellant had pointed out the wrong charging of Voltage Surcharge to the office of the Respondent for the first time after receipt of energy bill dated 26.03.2020. As a result, Voltage Surcharge was not levied in the bills subsequently issued to the Appellant.
- (ii) It is observed that the Respondent defaulted initially in levying Voltage Surcharge in the bills issued from 04.04.2016 onwards



and thereafter, on being pointed out by the Appellant in 04/2020, did not take appropriate action for refund of the amount charged in excess relating to the period 03/2016 to 03/2020. Had the Respondent taken timely action as per its instructions, the present dispute could have been avoided.

- (iii) In this connection it is worthwhile to peruse the observation of the Forum in its decision dated 02.03.2021 which reads as under:

*“Forum observed that the Petitioner is a NRS consumer having sanctioned load of 268.68 KW and was receiving regular energy bills from the respondent Corporation from time to time and in all the bills, the details of all the tariffs applied/charges/Surcharges levied etc. were invariably depicted. The petitioner did not point out or represent to the respondent the issue of levying of Voltage Surcharge in bills for a long period from the years 2016 to 2020. Thus the petitioner did not take appropriate remedy at appropriate time and the onus for not taking appropriate remedies rests on the petitioner also. The allowing of claim of interest on the amount of excess Voltage Surcharge wrongly levied by the respondent and paid as such without any protest by the petitioner during the years 2016 to 2020 will not be justified*



*now. Further if had it be a reverse case of levying of some mistakenly left charges to the petitioner then it would have also been charged/recovered without interest only. As such, Forum is not inclined to allow any interest on the excess charged amount on account of Voltage Surcharge.”*

- (iv) The Respondent, in its defence, submitted that as per the decision of the Forum, refund of ₹ 11,67,930/- had been allowed to the Appellant on 16.04.2021 through Sundries but the Appellant had claimed interest on the said amount and had filed the Appeal in this Court. As per the decision of the Forum, the Appellant was entitled to the refund of the basic amount, which was charged from it, in excess, on account of Voltage Surcharge and the refund of the said amount had been given to the Appellant as per the said decision. The Appellant was not entitled to any interest as per this decision.
- (v) The Court was apprised by the Respondent that the Appellant submitted letter dated 30.09.2020 to the AEE, DS Sub-urban Sub-division, Sangrur for refund of Voltage Surcharge levied in excess in the bills issued to it. The Appellant was informed to seek appropriate remedy by filing its case in the Forum. As per order dated 02.03.2021 of the Forum, a refund of ₹ 11,67,930/- was given through Sundry to the Appellant. Apart from this, no

other application for payment of interest was submitted by the Appellant in the Sub Divisional Office. The Appellant did not deposit the bills from 01/2020 onwards with PSPCL. Therefore, the amount charged to the Appellant as Late Payment Surcharge was justified and recoverable. The request of the Appellant for allowing interest as per Regulation 35.1.3 of Supply Code-2014 may be decided by the Court after due consideration.

- (vi) It is observed that the Appellant cannot absolve itself of the responsibility of not checking the bills after being served to him during the period from 04/2016 to 03/2020. All the tariff rates applicable from time to time were available on the websites of PSPCL and PSERC. The Appellant, being NRS category consumer, running a hotel is supposed to be well conversant with tariff rates and regulations / instructions governing his electricity connection. The Appellant was required to be vigilant and should have pointed out the wrong levy of Voltage Surcharge to the Respondent at the earliest available opportunity i.e. after issue of bill dated 04.04.2016. Instead, the Appellant brought this mistake to the knowledge of the Respondent after issue of bill dated 26.03.2020. Thereafter, the Appellant submitted its application in the office of the

Respondent on 01.10.2020 for refund of Voltage Surcharge wrongly charged. In the aforesaid application, the Appellant did not request for allowing interest on the refundable amount. The Appellant did not even challenge the bills issued for the period of dispute.

- (vii) After going through written and oral submissions as well as the evidence brought on record by both the sides, this court is not inclined to allow interest till 01.10.2020 (the date of submission of application by the Appellant for refund of Voltage Surcharge in the office of the Respondent) on the excess amount charged in the bills dated 04.04.2016 to 26.03.2020. The Respondent failed to take departmental action for refund of excess amount charged relating to Voltage Surcharge even after receipt of written request from the Appellant on 01.10.2020. The Appellant felt compelled to file Case No. CGP-36 of 2021 in the CGRF, Patiala. The Respondent has requested this Court to decide the issue of grant of interest on the amount already refunded through Sundries on 16.04.2021.

It is observed that ends of justice would be met if the Appellant is allowed interest on the amount of ₹ 11,67,930/- (refunded through Sundries on 16.04.2021 by the Respondent) for the period from 02.10.2020 (date following the date of submission

of application on 01.10.2020 in the office of the Respondent) till 15.04.2021 (date preceding the date of refund). This interest shall be payable at the rates specified in Regulation No. 35.1.3 of Supply Code-2014 as applicable from time to time.

## **7. Decision**

As a sequel of above discussions, the order dated 02.03.2021 of the CGRF, Patiala in Case No. CGP-36 of 2021 relating to grant of interest is partly modified. The Appellant shall be allowed interest on the amount of Voltage Surcharge levied wrongly in the electricity bills dated 04.04.2016 to 26.03.2020 (refunded by the Respondent under Sundries on 16.04.2021) from 02.10.2020 (date following the date of submission of application on 01.10.2020 in the office of the Respondent) till 15.04.2021 (date preceding the date of refund) as per interest rates specified in Regulation No. 35.1.3 of Supply Code-2014 as applicable from time to time.

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

**9.** As per provisions contained in Regulation 3.26 of Punjab State Electricity Regulatory Commission (Forum and Ombudsman) Regulations-2016, the Licensee will comply with the award/order within 21 days of the date of its receipt.

10. 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.

May 12, 2021  
S.A.S. Nagar (Mohali)

(GURINDER JIT SINGH)  
Lokpal (Ombudsman)  
Electricity, Punjab.

