

**COURT OF THE LOK PAL (OMBUDSMAN),
ELECTRICITY, PUNJAB,
PLOT NO. A-2, INDUSTRIAL AREA, PHASE-1,
S.A.S. NAGAR (MOHALI).
(Constituted under Sub Section (6) of Section 42 of Electricity
Act-2003)**

APPEAL No. 60/2021

Date of Registration : 16.08.2021

Date of Hearing : 27.08.2021

Date of Order : 27.08.2021

Before:

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

In the Matter of:

Star Poly Fabric,
Mullanpur Road, Humbran,
Distt. Ludhiana,

Contract Account Number: U12HB0100010

...Appellant

Versus

Additional Superintending Engineer,
DS Adda Dakha Division,
PSPCL, Ludhiana.

...Respondent

Present For:

Appellant : Sh. M.R. Singla,
Appellant's Representative (AR).

Respondent: Er. Dharam Pal,
Addl. Superintending Engineer,
DS Adda Dakha Division,
PSPCL, Ludhiana.

Before me for consideration is an Appeal preferred by the Appellant against the decision dated 30.03.2021 of the Consumer Grievances Redressal Forum (Forum), Ludhiana in Case No. T-122 of 2021 sent to the Appellant vide letter No. 1557 dated 07.04.2021, deciding that:

“Interest under Reg. 17.1 and 17.2 of Supply Code 2014 on updated ACD and Meter Security with amendments, if any, be given, from the date as per applicable regulation of Supply Code-2014, after getting it pre-audited.”

2. Registration of the Appeal

A scrutiny of the Appeal and related documents revealed that the Appeal was received in this Court on 16.08.2021 i.e. beyond the stipulated period of thirty days of receipt of the decision dated 30.03.2021 of the CGRF, Ludhiana in Case No. T-122 of 2021 sent to the Appellant vide letter No. 1557 dated 07.04.2021. Alongwith the Appeal, the Appellant had also filed an application for condonation of delay in filing the Appeal. The Appeal was registered and copy of the same was sent to the Addl. Superintending Engineer/ DS Adda Dakha Division, PSPCL, Ludhiana for sending written reply/ parawise comments with a copy to the office of the CGRF, Ludhiana

under intimation to the Appellant vide letter nos. 1133-35/OEP/A-60/2021 dated 16.08.2021.

3. Proceedings

With a view to adjudicate the dispute, a hearing was fixed in this Court on 27.08.2021 at 01.00 PM and an intimation to this effect was sent to both the parties vide letter nos. 1166-67/OEP/A-60/2021 dated 23.08.2021. As scheduled, the hearing was held in this Court and arguments of both the parties were heard.

4. Condonation of Delay

- (i) At the start of hearing on 27.08.2021, the issue of condoning of delay in filing the Appeal in this Court was taken up. The Appellant stated that he had filed its grievance before the Forum with a request to direct the Respondent to update the Security in its bills and to pay interest on it as per Regulations. During proceedings of the case, Security Amount was updated in energy bill for the month of March, 2021 but the interest was not paid from the date of deposit. Forum decided the case on 30.03.2021 with an order to the Respondent to pay interest as per Regulations.
- (ii) The Respondent had not implemented the impugned order of the Forum within the period specified in CCHP. However, the

order of the Forum was implemented after a period of more than 3 months on 23.07.2021. Had the order of the Forum been implemented in time as per Regulations in this case, the Appeal would have been filed by the Appellant earlier. Moreover, the Appellant never knew that amount will be adjusted in the energy bill.

- (iii) As per Appellant's calculation, amount of interest due upto 31.03.2020 works out as ₹ 3,89,682/- whereas amount credited by the Respondent in energy bill was ₹ 2,18,347/- only.
- (iv) The Appeal was being filed within 30 days from the date of implementation of order. However, in compliance to the CCHP, the Appellant requested for condoning of delay for not filing the Appeal within 30 days from the date of receipt of order of the Forum.
- (v) 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.
- (vi) 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.”

Refusal to condone 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 Counsel 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's Representative and the Respondent alongwith material brought on record by both the parties.

(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 Large Supply Category Connection, bearing Account No. U12HB0100010 with sanctioned load of 998.18 kW and Contract Demand (CD) as 995 kVA.
- (ii) The Appellant had deposited Security/ ACD upto 31.03.2016 for sanctioned load of 185 kVA amounting to ₹ 2,60,146/-. The Appellant had deposited additional amount of ₹ 9,95,800/- (₹ 47,790/- on 03.06.2016 + ₹ 2,31,160/- on 12.07.2016 + ₹ 7,16,850 on 29.07.2016) for getting extension of load from 185 kVA to 995 kVA. The Appellant had deposited total Security as ₹ 12,55,946/- but the same was not updated in the energy bills. The amount of Security depicted in the energy bills was ₹ 2,60,146/- resulting into lesser amount of interest than the actual due amount.
- (iii) The Appellant had requested the Respondent verbally so many times to update the Security and pay the difference amount of interest lesser paid. Written requests were also made but no action was taken by the Respondent.
- (iv) The Appellant filed the Petition before the Forum with a request to direct the Respondent to update the security in the bills and to pay interest on it from the date of deposit as per Regulations. During proceedings of the case in the Forum, Security amount was updated by the Respondent in energy bill

for the month of March, 2021 but interest on it was not paid from the date of deposit. Forum decided the case on 30.03.2021 with a direction to the Respondent to pay interest as per Regulations.

- (v) The order of the Forum was implemented by the Respondent on 23.07.2021 after a period of more than three months and the amount of interest credited in the energy bill was not in accordance with the Regulations. As such, the Appellant was constrained to file the present Appeal for justice. Had the order of the Forum been implemented within time by the Respondent as per Regulation, the Appellant would have filed the Appeal earlier.
- (vi) The Appellant was entitled to ₹ 3,89,682/- on account of interest due up to 31.03.2020 whereas amount credited by the Respondent in energy bill was ₹ 2,18,347/- only. The calculations of interest amount had been given below:-

Calculation of interest amount due A/c No. U12-HB01-00010					
Sr. No.	Amount	Period	Days	Rate	Gross
1.	47790	03.06.2016 to 31.03.2017	302	7.75+4%=11.75	4646
2.	231160	12.07.2016 to 31.03.2017	263	7.75+4%=11.75	19571
3.	716850	29.07.2016 to 31.03.2017	246	7.75+4%=11.75	56768
4.	995800	01.04.2017 to 31.03.2018	365	6.5+4%=10.50	104559
5.	995800	01.04.2018 to 31.03.2019	365	6.25+4%=10.25	102069
6.	995800	01.04.2019 to 31.03.2020	366	6.25+4%=10.25	102069
				Total	389682

- (vii) As per Regulation 17.2 of Supply Code-2014, interest on Securities was to be paid/ adjusted in the month of April every year and in the event of delay in effecting adjustments due to the consumer as per Regulation 17.2, in that case Regulation 17.3 was applicable. This Regulation had been further amended by PSERC through 1st amendment dated 22nd June, 2016 which was reproduced below:

17.3 “In the event of delay in effecting adjustments due to the consumer as per regulation 17.2, the Distribution Licensee shall for the actual period of delay pay interest at Bank Rate (as on 1st April of each year) as notified by RBI plus 4%.”

- (viii) As per these Regulations, the amount of interest due to the Appellant works out as ₹ 3,89,682/- whereas the Respondent had adjusted ₹ 2,18,347/- only.
- (ix) It was prayed that order may please be passed with a direction to the Respondent to pay interest on Securities as per Regulation 17.3 of Supply Code-2014.

(b) Submissions made in the rejoinder

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

- (i) The ACD was not updated in time & interest thereon was not credited in the account of the Appellant owing to the reason that the Appellant had not applied for up-dation of ACD/ Security prior to filing of case before the Forum. The Respondent had not quoted any regulation or instructions that the consumer was required to apply for up-dation of Security.
- (ii) The Appellant had requested several times to the notified office of the Respondent verbally as well as in writing before filing the case in the Forum. Last letter was written on 27.01.2021 and the same had been enclosed for perusal & reference.
- (iii) PSERC while approving tariff order for the Year 2016-17 had issued directive no. 8.21 to PSPCL that up-dation of the ACD be done suo-moto by PSPCL and applicable interest be given. PSERC had nowhere mentioned that consumer was to give any representation in this regard, which clearly reveals that there was no such Regulation of the PSERC. Therefore, there was no liability for doing so at the consumer's end.
- (iv) The Appellant prayed that her husband had expired on 15.02.2018, copy of death certificate was attached. Obviously, the husband of the Appellant had been looking after all the

affairs of the works. After his death, the Appellant and her family members had gone into acute grieved situation and were totally upset. However, the Appellant being head of the family had started looking after the works of the Unit but could not trace any correspondence made with the Respondent. Moreover, the Appellant was not aware of the Standard Operational Procedure of the PSPCL being totally in grief.

- (v) Now, liability of the PSPCL was to update the ACD & ensure payment of interest thereon as per Regulation 17.2 & 17.3 of Supply Code, 2014.
- (vi) PSERC had the following Regulation of Supply Code, 2014 to support the averment of the Appellant:

“17.2 The interest on Security (consumption) and Security (meter) shall be credited to the account of a consumer annually on first day of April each year and shall be adjusted/ paid in first bill raised after first April every year against the outstanding dues and/or any amount becoming due to the distribution licensee thereafter.

17.3 In the event of delay in effecting adjustments due to the consumer as per regulation 17.2, the distribution licensee shall for the actual period of

delay pay interest at Bank Rate (as on 1st April of each year) as notified by RBI plus 4%.”

The above facts and figures were submitted in view of PSERC notification dated 26.12.2016. PSERC (Forum and Ombudsman) Regulations, 2016 and its Sub Regulation 1.5 (e) (i) & (vi) define a complaint where unfair trade practice or restrictive trade practice had been adopted by the PSPCL in providing electricity service. Breach of obligation by the PSPCL had occurred which had adversely affected the Appellant. Breach was due to delay in up-dation of Security and non-grant of applicable interest on the Security deposits.

(vii) It would be appreciated that deficiency of service had taken place by way of not updating ACD and payment of legitimate interest in time thereby causing financial hardship.

(viii) In view of the above Regulation framed by PSERC and the discussion in line with the same, the Appellant had requested this Court to direct the Respondent to allow it remaining amount of interest ₹ 3,89,682- 2,18,347= ₹ 1,71,335/- (interest due as per Regulation ₹ 3,89,682/- minus interest adjusted ₹ 2,18,347/-) which the Appellant deserved as per law.

(c) Submission during hearing

During hearing on 27.08.2021, the Appellant's Representative reiterated the submissions made in the Appeal and prayed to allow the relief claimed.

(B) Submissions of the Respondent

(a) Submissions in written reply

The Respondent, in its defence, submitted the following written reply/ parawise comments for consideration of this Court:

- (i) The Appellant was having an Industrial Connection under LS Category in the name of M/s Star Poly Fabric. The Consumer had applied for Extension of load from 228.18 to 998.18 kW & Contract Demand (CD) from 185 to 995 kVA vide A&A No. 25870 on 25.07.2016.
- (ii) The Appellant had deposited AACD amounting to ₹ 47,790/- vide receipt no. 136944 dated 03.06.2016, ₹ 2,31,160/- vide receipt no. 137617 dated 12.07.2016 and ₹ 7,16,850/- vide receipt no. 137924 dated 29.07.2016. Total amount was equal to ₹ 9,95,800/-. This amount was not updated in Appellant's bill when the extension was released vide SJO no. 05/45095 dated 29.12.2016. The Appellant had filed its case before the Forum for interest on AACD not updated in the bills.

- (iii) As per decision of the Forum dated 07.04.2021, the consumer was refunded ₹ 2,18,347/- after deduction of TDS amounting to ₹ 24,261/- i.e. gross interest amount refunded was ₹ 2,42,608/-. The Appellant was not satisfied with the refund amount and had filed this Appeal.
- (iv) The Appellant had neither applied for up-dation of ACD (Security) nor for payment of interest on the same. When the issue was brought to the notice of DS Sub Division, Humbran; the same was updated in the bill of 02/2021 issued on 22.03.2021. The Respondent had also written letter no. 308 dated 17.03.2021 to Addl. S.E/ CBC for updating ACD in Appellant's account and for issuing RBS in respect of interest on ACD. The Appellant had filed its case before the Forum for payment of interest on security not updated in the bill.
- (v) CGRF, Ludhiana after hearing both parties in the meeting dated 30.03.2021, decided that "Interest under Reg. 17.1 and 17.2 of Supply Code, 2014 on updated ACD and Meter Security with amendments, if any, be given from the date as per applicable regulation of Supply Code -2014, after getting it pre-audited."

It was clear from the order that interest shall be payable as per Regulation 17.1 & 17.2 as the Respondent had not updated the amount in the account of the Appellant nor the Appellant

demanded interest thereon. As per decision of the Forum, the calculation sheet was sent to AO/ Fields-2, Ludhiana for pre-Audit vide letter no. 481 dated 29.04.2021 which was again sent vide letter no.786 dated 15.07.2021. The same was forwarded to IA, Adda Dakha Division and the calculations were checked and verified by IA concerned which stated that the amount of interest refundable was ₹ 2,42,608/- and TDS worked out as ₹ 24,261/-. Net interest refunded to the Appellant was ₹ 2,18,347/- and the same was adjusted in the bill for the month of 07/2021.

- (vi) The decision by the Forum clearly stated to provide interest on Security to the consumer as per Regulation 17.1 & 17.2 of Supply Code, 2014. The consumer had prayed to avail normal interest alongwith penal Interest as per Regulation 17.3 whereas the Forum in its decision did not allow Penal Interest to the consumer. So, the amount refunded to the consumer was correct as per decision of the Forum.

(b) Submission during hearing

During hearing on 27.08.2021, the Respondent reiterated the submissions made by it in the written reply and contested the submissions of the Appellant. The Respondent had again confirmed that the Appellant had never applied in writing for

up-dation of Security Amount and for payment of interest on it although the Securities were invariably depicted in the monthly electricity bills served to the Appellant. The Appellant did not challenge the monthly electricity bills.

6. Analysis and Findings

The issue requiring adjudication is whether interest on Security (Consumption) & Security (Meter) is admissible as per Regulation 17.3 of Supply Code, 2014 or not as prayed in this Appeal.

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

- (i) The Appellant in its Appeal had pleaded for the payment of penal interest on the Security (Consumption) and Security (Meter) under the provisions of Regulation 17.3 of Supply Code, 2014 which provided as under: -

17.3 “ In the event of delay in effecting adjustments due to the consumer as per regulation 17.2, the distribution licensee shall for the actual period of delay pay interest at Bank Rate (as on 1st April of each year) as notified by RBI plus 4%. ”

- (ii) The Appellant had pleaded in the rejoinder that there was no provision of filing any application by the Appellant for seeking

payment of interest on the Security (Consumption) and Security (Meter). Suo-moto action was required to be taken by the Respondent to make the due payment to the Appellant in the month of April every year. The Appellant also reiterated the averments made by it in the Appeal as well as in the rejoinder.

- (iii) The Respondent opposed the prayer of the Appellant and brought to the notice of this Court that the decision of the Forum had already been implemented. Now, the Appellant was not entitled to anything more than that already granted by the Forum. The Respondent had pointed out that the Appellant had never applied for up-dation/ correction of Security (Consumption) & Security (Meter) and for payment of interest thereon. The Respondent prayed for the dismissal of the Appeal on the ground that the Appellant had been receiving the bills regularly and if there was any error in the bills relating to Securities or the payment of any due amount was not made to it by the Respondent then the Appellant should have pointed out the deficiency in service at the relevant time. It was the duty of the Appellant to keep itself updated being a Large Supply category consumer. Ignorance of any law/ regulation is no excuse and nobody can be allowed to take benefit of its own wrongs/ short comings. The Respondent had pleaded that the Appeal was devoid of merits and hence deserved dismissal.

- (iv) It is observed that Security (Consumption) & Security (Meter) are invariably shown on the monthly electricity bills issued by the Respondent. The payment of interest on these securities is also done through electricity bills as per applicable regulations. The Appellant had never pointed out to the Respondent about incorrect Security Amount appearing on the monthly bills and non-payment of interest as per Supply Code regulations. All the tariff orders and regulations of the Commission are available on the websites of PSPCL & PSERC.
- (v) The Appellant being a Large Supply Industrial Consumer was supposed to point out the corrections required in the Security Amounts to the Respondent at appropriate time. Had the Appellant taken appropriate remedy to get the corrections done in the Security Amount at appropriate time, this dispute would not have arisen. The Appellant had never challenged the electricity bills to get the Securities updated and for credit of interest. The failure on the part of the Appellant to take remedial measure at an appropriate time should not result in undue benefit to him by awarding penal interest under Regulation 17.3 of Supply Code, 2014. The Appellant might have not pointed out earlier about up-dation of Securities in the bills with a hope to earn more interest in the shape of Penal Interest as per Regulation 17.3 of Supply Code, 2014 which is

more than the interest being paid by the Banks. The Forum had already awarded interest under Regulation 17.1 & 17.2 of Supply Code, 2014 on updated Security Amount without invoking Regulation 2.27 (c) of PSERC (Forum & Ombudsman) Regulations, 2016 and the Respondent had paid interest of ₹ 2,18,347/- in the electricity bill for 07/2021 after deducting TDS amounting to ₹ 24,261/- as per decision of the Forum. Sufficient relief has been given by the Forum in this case. I am not inclined to allow any penal interest in this case as per Regulation 17.3 of Supply Code, 2014 as prayed in the Appeal. The Appeal is devoid of merits and hence is being rejected after due consideration.

7. Decision

As a sequel of above discussions, the order dated 30.03.2021 of the Forum in Case No. T-122 of 2021 is upheld.

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.

August 27, 2021
S.A.S. Nagar (Mohali)

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

