

**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. 67/2021

Date of Registration : 15.09.2021

Date of Hearing : 22.09.2021

Date of Order : 24.09.2021

Before:

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

In the Matter of:

Tribhawan Kumar S/o Sh.Tilak Raj,
263 M House, Model Town Extension,
Ludhiana.

**Contract Account Number: 3002381902 (Old)
3007611092 (New)**

...Appellant

Versus

Additional Superintending Engineer,
DS Model Town (Spl.) Division,
PSPCL, Ludhiana.

...Respondent

Present For:

Appellant: Sh. Tribhawan Kumar,
Appellant.

Respondent : 1. Er. M .P.Singh,
Addl. Superintending Engineer,
DS Model Town (Spl.) Divn.,
PSPCL, Ludhiana.

2. Shri Satnam Singh,
AAO

Before me for consideration is an Appeal preferred by the Appellant against the decision dated 15.07.2021 of the Consumer Grievances Redressal Forum (Forum), Ludhiana in Case No. CGL-162 of 2021 deciding that:

“The decision of CLDSC is correct and the same is upheld.

Respondent is directed to initiate action against the meter reader/ meter reading agency/ consumer as per terms & conditions of the work order and instructions of Corporation. ”

2. Registration of the Appeal

A scrutiny of the Appeal and related documents revealed that the Appeal was received in this Court on 23.08.2021 within the period of thirty days of receipt of copy of the decision dated 15.07.2021 of the CGRF, Ludhiana in Case No. CGL-162 of 2021 dispatched by the Forum vide Memo No. 2377 dated 19.07.2021. The Appeal was not filed by the Consumer who had signed A&A form with the Respondent. Further, the Appellant did not submit any evidence in support of deposit of the requisite 40% of the disputed amount for filing the Appeal in this Court as required under Regulation 3.18 (iii) of PSERC (Forum & Ombudsman) Regulation, 2016 despite many requests. In view of these shortcomings in the Appeal, a pre-

hearing was fixed in this Court for 03.09.2021 at 12.00 Noon and an intimation was sent to both parties vide letter nos. 1213-14/OEP/A-2021 dated 31.08.2021. The Respondent was directed to affect the change of name on urgent basis after completion/ submission of requisite documents by the Appellant and to inform this Court about change of name before the next date of pre-hearing that was fixed for 17.09.2021 at 11.30 AM. On 14.09.2021, Addl. SE/ DS Model Town Division, PSPCL, Ludhiana confirmed by e-mail that the Appellant had applied for change of name and the same had been done. The Respondent also confirmed vide its letter no. 4540 dated 02.09.2021 that a sum of ₹ 21,300/- as 40 % of disputed amount has been deposited by the consumer. Therefore, the Appeal was registered on 15.09.2021 and copy of the same was sent to Addl. SE/ DS Model Town (Spl.) 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. 1280-82/OEP/A-67/2021 dated 15.09.2021.

3. Proceedings

With a view to adjudicate the dispute, a hearing was fixed in this Court on 22.09.2021 at 12.00 Noon and an intimation to

this effect was sent to both the parties vide letter nos. 1296-97/OEP/A-67/2021 dated 17.09.2021. As scheduled, the hearing was held on 22.09.2021 in this Court. Arguments of both parties were heard and order was reserved. Copies of the proceedings were sent to the Appellant and the Respondent vide letter nos. 1326-27/OEP/A-67/2021 dated 22.09.2021.

4. 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 Domestic Supply Category Connection, bearing Account No. 3002381902 with sanctioned load of 4 kW which was granted by the Respondent to his father Shri Tilak Raj.

- (ii) The Appellant's father died in the year 2004 and after his death, the Appellant had been consuming electricity from the said connection and depositing electricity bills.
- (iii) An Electro Mechanical Meter was lying installed in the premises of the Appellant, which became defective as per Report of Respondent as the same fell down from place of installation and then Respondent issued MCO on 09.11.2017 and removed the Electro Mechanical Meter from site but reason mentioned in their record was dead meter.
- (iv) The removed meter was not packed and sealed in the presence of the Appellant against the rules of PSPCL and was kept in open condition, which remained in the custody of DS Model Town (Spl.) Division and the same was sent to ME Lab through Store Challan No. 15 dated 15.10.2018 at a much later stage in violation of PSPCL Regulations and provisions of Electricity Act, 2003.
- (v) At the time of removing the meter, final reading was mentioned as 53316 but later on Respondent themselves changed the reading to 59454 on MCO and then on the basis of one false half margin of Audit Party dated 04.11.2019, raised an illegal demand of ₹ 52,934/- and alleged that difference of unit of 6138 had been charged from the consumer which demand was

totally illegal, later on included in the current bill. However, the Appellant who had been running small Karyana Store, decided to challenge the illegal demand raised by DS Model Town (Spl.) Division and got referred his case to Dispute Settlement Committee, where he was not heard and illegal demand was upheld by the Committee officials. Against the said decision, an Appeal was filed with the CGRF, Ludhiana and they too decided the Appeal on 15.07.2021 one sided and no major relief was given to the Consumer. A copy of the said decision of CGRF, Ludhiana was supplied vide letter dated 19.07.2021.

- (vi) Demand raised by PSPCL was totally illegal and was liable to be quashed on the following grounds:-
- (a) The electro mechanical meter fell down in ordinary course from place of its installation and was running earlier correctly and was recording correct consumption and no defect was pointed out by the Respondent at any occasion.
 - (b) The removed meter was not packed and sealed in the presence of Appellant at the time of removal in Cardboard Box nor paper seals were affixed on Cardboard Box.
 - (c) That Appellant was not called in ME Lab when the meter was checked in ME Lab.

(d) DS Model Town (Spl.) Division had kept the electro mechanical meter in open condition unpacked for a long time from the date of its removal till the same was sent to ME Lab on 15.10.2018 and officials of the Respondent negligently not kept the meter in safe condition.

(e) At the time of effecting MCO, correct reading 53316 was inserted but later on officials themselves changed the reading to 59454 without any reason just to harass the Appellant.

(f) The official of Department had alleged that Meter Reader had not recorded correct readings without assigning any reason and without evidence whereas the Appellant had no role in recording the reading who was layman.

(g) All these facts were brought in the knowledge of the officials of Dispute Settlement Committee as well as Appellate Authority (CGRF) at the time of argument but they had decided the case one sided and no relief was given to the Appellant and illegal demand was not quashed. They were threatening to disconnect the electricity connection of the Appellant without any reason.

(vii) It was, therefore, prayed that after considering the above submission and facts as per record of the Respondent, illegal demand of ₹ 52,934/- raised on the basis of Audit Party Half Margin may kindly be ordered to be quashed and the

Respondent should be directed to refund back the amount got deposited out of challenged demand of ₹ 52,934/- alongwith interest which was got deposited at the time of entertaining the case and Appeal by the Dispute Settlement Committee and CGRF, Ludhiana.

(b) Submissions during hearing

During hearing on 2.09.2021, the Appellant reiterated the submissions already made in the Appeal and prayed to allow the relief claimed in the Appeal.

(B) Submissions of the Respondent

(a) Submissions in written reply

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

- (i) The Appellant was having Domestic Supply Category connection bearing A/c No 3002381902 (New Account No. 3007611092 after change of name) with sanctioned Load of 4 kW.
- (ii) The Appellant's meter was changed on 'D' code. The meter was replaced vide MCO No. 100004920619 dated 09.11.2017 affected on 09.11.2017. The meter was sent to ME Lab vide Challan No. 15 dated 05.10.2018. The final reading as per ME

Challan was 59454 kWh whereas the Appellant had been billed upto the reading 53316.

- (iii) The account of the Appellant was charged for a sum of ₹ 52,934/- based upon Audit Half Margin for difference of reading of 6138 kWh. Being unsatisfied with that charged amount, the Appellant had earlier filed his case before CLDSC and as per the decision of CLDSC, a sum of ₹ 9,280/- was refunded out of the total amount charged to the Appellant. Lateron, the Appellant had filed an Appeal before CGRF, Ludhiana, which had upheld the decision of the CLDSC.
- (iv) A/c No. 3002381902 was running in the name of Shri Tilak Raj and after his demise, the Appellant had neither apprised the Respondent about this fact nor had got his father's connection changed in his own name. Now the Change of Name has been affected by the Respondent as per request of the Appellant.
- (v) The meter of the Appellant was replaced due to 'D' code in the year 2017. The fact of felling down of the meter was not in the knowledge of the Respondent. The meter was single phase meter, replaced on 'D' code report and was sent to ME Lab.
- (vi) The Appellant was billed upto reading 53316 but the actual final reading as per ME challan was 59454 and difference of

6138 units was billed by the Audit Party and due to which the Appellant was charged with a sum of ₹ 52,934/-. The Appellant had earlier placed its case before CLDSC which decided the case by dividing the final reading into last three years period and while complying with the orders of CLDSC, a sum of ₹ 9,280/- was given credit out of the said charged amount but the Appellant was not satisfied and filed an Appeal before the Forum which upheld the decision of CLDSC, Ludhiana.

(vii) The Respondent submitted that the Meter was replaced on 'D' code and being Single Phase meter, it was not packed. Consumers were called in ME Lab whose meters were challenged and then checked in ME Lab. The meter was sent to ME Lab in a routine and checked in the presence of all concerned officers.

(b) Submission during hearing

During hearing on 22.09.2021, the Respondent reiterated the submissions already made in the written reply and prayed for dismissal of the Appeal.

5. Analysis and Findings

The issue requiring adjudication is the legitimacy of amount of ₹ 52,934/- charged on account of the difference in reading billed and final reading as per ME Lab Challan.

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

- (i) The Appellant was having a DS Connection with sanctioned load of 4 kW and the same was running in the name of Shri Tilak Raj father of Sh. Tribhawan Kumar-Appellant. Now the connection has been changed in the name of Sh. Tribhawan Kumar-Appellant.
- (ii) Change of name was done by the Respondent and confirmed through e-mail dated 14.09.2021. Now new Account No. of the Appellant is 3007611092.
- (iii) The Appellant submitted that he was having an Electro Mechanical Meter and the same became defective as per report of the Respondent when the same fell down from place of installation and then Respondent issued MCO on 09.11.2017 and removed the Electro Mechanical Meter from site but the reason mentioned in their record was dead meter.

- (iv) The removed meter was not packed and sealed in the presence of the Appellant against the rules of Respondent and was kept in open condition which remained in the custody of DS Model Town (Spl.) Division, Ludhiana. The same was sent to ME Lab through Store Challan No. 15 dated 15.10.2018 at a much later stage in violation of PSPCL Rules/ Regulation and provisions of the Electricity Act, 2003.
- (v) At the time of removing the meter, final reading was mentioned as 53316 but later on PSPCL officials themselves changed the reading to 59454 on MCO. Lateron, on the basis of one false Half Margin of Audit Party dated 04.11.2019, an illegal demand of ₹ 52,934/- was raised and it was alleged that difference of units of 6138 had been charged to the consumer. The demand was totally illegal and lateron was included in the current bill of the Consumer. However, the Appellant who was running small Karyana Store, decided to challenge the illegal demand raised by Ds Model Town (Spl.) Division and got referred his case to Circle Level Dispute Settlement Committee where he was not heard and illegal demand was upheld by the Committee officials. Against the said decision, an Appeal was filed before the CGRF, Ludhiana and they too decided the Appeal on 15.07.2021 one sided and no major relief was given

to the consumer. A copy of decision of the Forum was supplied to the Appellant vide letter dated 19.07.2021.

(vi) Demand raised by PSPCL was totally illegal and was liable to be quashed on the following grounds: -

(a) The Electro Mechanical Meter fell down in ordinary course from place of its installation and was running earlier correctly. It was recording correct consumption and no defect was pointed out by the Respondent at any occasion.

(b) The removed meter was not packed and sealed in the presence of the Appellant at the time of removal in Cardboard Box nor paper seals were affixed on Cardboard Box.

(c) That Appellant was not called in ME Lab when the meter was checked in ME Lab.

(d) DS Model Town (Spl.) Division had kept the Electro Mechanical Meter in open condition unpacked for a long time from the date of its removal till the same was sent to ME Lab on 15.10.2018 and the officials of PSPCL negligently not kept the meter in safe condition.

(e) At the time of affecting of MCO, correct reading 53316 was inserted but later on officials themselves changed the reading to 59454 without any reason just to harass the Appellant.

(f) The official of the Department had alleged that Meter Reader had not recorded correct readings without assigning any reason and without any evidence whereas the Appellant had no role in recording the readings who was a layman.

(g) The Respondent pleaded that the Appellant's meter was changed on 'D' code. The meter was replaced vide MCO No. 100004920619 dated 09.11.2017 affected on 09.11.2017. The meter was sent to ME Lab vide Challan No. 15 dated 05.10.2018. The final reading as per ME Challan was 59454 kWh whereas the Appellant had been billed upto the reading 53316.

(vii) The account of the Appellant was charged for a sum of ₹ 52,934/- based upon Audit Half Margin for difference of reading of 6138 kWh. Being unsatisfied with that charged amount, the Appellant had filed his case in CLDSC and as per its decision, amount of ₹ 9,280/- was refunded out of the total amount charged. The Appellant filed his Appeal before CGRF which also upheld the decision of CLDSC.

(viii) The meter of the Appellant was replaced due to 'D' code in the year 2017. The fact of felling down of the meter was not in the knowledge of the Respondent's office. The meter was single

phase meter, replaced on 'D' code report and sent to ME Lab for its checking.

- (ix) Meter was replaced on 'D' code and being Single Phase meter, it was not packed. Consumers were called in ME Lab only when meters were challenged & were required to be checked in ME Lab. The meter was sent to ME Lab in a routine and checked in the presence of all concerned officers.
- (x) Appellant's Case was earlier decided by the CLDSC and then the Appeal was entertained and decided by the Forum against the Appellant.
- (xi) Connection of the consumer was checked vide LCR No. 15/813 dated 02.11.2020 where it was found that the connected load was 0.813kW and supply was being used at first floor only. Consumption data is as below :-

Year	2017		2018		2019		2020	
Month	Cons	Code	Cons	Code	Cons	Code	Cons	Code
Jan	240	O			201	O	138	O
March			363	O				
April	161	O			192	O	235	N
May	479	O	418	O	487	O	216	O
July	55	O	64	P	692	O	186	O
Aug			650	O				
Sept			552	O	731	O	176	O
Oct	359	O						
Nov	154	F	286	O	245	O		
Dec	102							

(xii) I do not agree with the decision of the CGRF to uphold the decision of CDSC according to which 6138 units were spread over to the last three years. There is no regulation in the Supply Code, 2014 to overhaul the Account of a dead stop/ defective meter for a period of three years. Maximum period permitted is six months as per Regulation No. 21.5.2 of Supply Code, 2014 which is reproduced below:-

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

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 month. The procedure for overhauling the account of the consumer shall be as under:

a) 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”.

(xiii) Electro Mechanical Meter installed at the premises of the Appellant was changed vide MCO No. 100004920619 dated 09.11.2017 which was affected on 09.11.2017. It is written on the MCO that the meter was defective. The final reading recorded on the MCO is 53316 kWh and after cutting, this was changed to 59454 kWh without recording any reason about cutting of already written reading. The Respondent failed to produce any record or report on the basis of which MCO was issued to replace the defective meter. The Respondent informed

that this meter might have been changed under the policy of replacing of Electro Mechanical Meters with Electronic/ Static Meters but he could not produce any record in this regard during hearing on 22.09.2021. MCO produced in this Court does not have signature of the Consumer or his representative. The meter was not kept in Cardboard Box duly sealed. Replaced meter remained in the custody of the Respondent in open condition from 09.11.2017 to 05.10.2018 then it was sent to ME lab vide Challan No. 15 dated 05.10.2018. The meter in dispute has been declared as Dead Stop by ME lab. The Respondent could not explain the delay of about 9 months in returning the meter to ME Lab.

(xiv) The Respondent pleaded that this is a case of accumulation of readings by the Meter Readers. No documentary evidence was produced in this regard. Even the disciplinary proceedings have not been initiated against any official of the Respondent relating to accumulation of readings. This Court is not inclined to agree with this theory put forward by the Respondent.

(xv) The decision of the Forum is not based on any regulations/ instructions of the Licensee. Both the parties agreed during hearing on 22.09. 2021 that the case should be decided strictly as per regulations by treating the meter as defective/ dead stop. It

would be just & fair to overhaul the account of the Appellant for a period of six months prior to replacement of disputed meter on 09.11.2017 as per Regulation No. 21.5.2 (d) & (e) of Supply Code, 2014. The Appellant agreed to this proposal during hearing on 22.09.2021.

6. Decision

As a sequel of above discussions, it is decided that:

- a) The order dated 15.07.2021 of the CGRF, Ludhiana in Case No. CGL-162 of 2021 is hereby set aside.
 - b) The account of the Appellant shall be overhauled for six months prior to replacement of disputed meter on 09.11.2017 as per Regulation No. 21.5.2 (d) & (e) of Supply Code, 2014.
 - c) Accordingly, the Respondent is directed to refund/ recover the amount found excess/ short after adjustment, if any, with surcharge/ interest as per instructions of PSPCL.
- 7.** The Appeal is disposed of accordingly.
- 8.** 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.

9. 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.

September 24, 2021
S.A.S. Nagar (Mohali)

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

