

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

APPEAL No. 82/2021

Date of Registration : 11.10.2021

Date of Hearing : 25.10.2021

Date of Order : 25.10.2021

Before:

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

In the Matter of:

Rasik Industries,
Talwara Road Sirhind Side,
Mandi Gobindgarh -147301
Contract Account Number: 3002309638 (LS)

...Appellant

Versus

Addl. Superintending Engineer,
DS Division, PSPCL,
Mandi Gobindgarh.

...Respondent

Present For:

Appellant: Sh. M.R.Singla,
Appellant's Representative.

Respondent : 1. Er. J.S.Tiwana,
Addl. Superintending Engineer,
DS Division, PSPCL,
Mandi Gobindgarh.

2. Sh. Bikramjeet Singh, RA.

Before me for consideration is an Appeal preferred by the Appellant against the decision dated 17.09.2021 of the Consumer Grievances Redressal Forum (Forum), Patiala in Case No. CGP-179 of 2021, deciding that:

“Interest on ACD amounts, deposited by the petitioner from time to time, has already given by respondent as per Supply Code-2007 and Supply Code-2014 Reg. clause 17.1, as amended from time to time and no further interest is payable to petitioner.”

2. Registration of the Appeal

A scrutiny of the Appeal and related documents revealed that the Appeal was received in this Court on 11.10.2021 i.e. within stipulated period of thirty days of receipt of the decision dated 17.09.2021 of the CGRF, Patiala in Case No. CGP-179 of 2021. The Appellant was not required to deposit requisite 40% of the disputed amount as the Appeal was on account of claim of additional interest on the security amount deposited by the Appellant. Therefore, the Appeal was registered and copy of the same was sent to the Sr. Xen/ DS Division, PSPCL, Mandi Gobindgarh for sending written reply/ parawise comments with a copy to the office of the CGRF, Patiala under intimation to

the Appellant vide letter nos. 1446-1448/OEP/A-82/2021 dated 11.10.2021.

3. Proceedings

With a view to adjudicate the dispute, a hearing was fixed in this Court on 25.10.2021 at 12.00 PM and an intimation to this effect was sent to both the parties vide letter nos. 1530-1531/OEP/A-82/2021 dated 21.10.2021. As scheduled, the hearing was held in this Court. Arguments were heard of both parties.

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 along with material brought on record by both 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 Large Supply Category connection bearing Account No. 3002309638 with sanctioned load of 2500

kW and CD as 2500 kVA. Security (Consumption) for this load was ₹ 69,85,544/- and Security (Meter) was ₹ 33750/- under DS Division, Mandi Gobindgarh.

- (ii) For getting extension of load from 2500 kVA to 16000 kVA, the Appellant deposited additional security of ₹ 2,02,50,000/- (₹ 10,12,500/- on 31.08.2018, ₹ 40,50,000/- on 10.05.2019 and ₹ 1,51,87,500/- on 17.09.2019), after which total Security (Consumption) became ₹ 2,72,35,544/-. The Extension in load was released on 11.01.2021.
- (iii) The Respondent paid interest on the additional Security in the month of April, 2021 from the date of release of extension in load, whereas it was required to be paid from the date of deposit of Security as per Regulation 17.1 of Supply Code-2014.
- (iv) The Appellant filed its grievance before the Forum (CGRF) vide Case No. CGP-179 of 2021. But no relief was given by the Forum. Therefore, the Appellant had filed an Appeal in this Court for justice.
- (v) As per the Appellant's calculation as given below, interest amount of ₹ 15,68,939/- was less paid upto 31.03.2021:-

Amount	Period	Days	Rate	Interest
₹ 10,12,500/-	31.08.2018 to 31.03.2019	244	6.25	₹ 42,303/-
₹ 40,50,000/-	10.05.2019 to 31.03.2020	326	6.25	₹ 2,26,079/-
₹ 1,51,87,500/-	17.09.2019 to 31.03.2020	196	6.25	₹ 5,09,718/-
₹ 2,02,50,000/-	01.04.2020 to 31.03.2021	365	4.65	₹ 9,41,625/-
₹ 70,19,244/-	01.04.2020 to 31.03.2021	365	4.65	₹ 3,26,395/-
			Total	₹ 20,46,120/-
Minus. Interest paid in 04/2021 = ₹ 4,77,181/-				
Net amount due = ₹ 15,68,939/-				

- (vi) As per Regulations 17.1 & 17.2 of Supply Code, 2014; interest on Security is to be paid/ adjusted in the month of April every year from the date of deposit of Security (Consumption) & Security (Meter) and in the event of delay in effecting adjustments due to the Consumer as per Regulation 17.2 in that case Regulation 17.3 is applicable. This Regulation had been further amended by PSERC through 1st amendment dated 22.06.2016, which is reproduced below:

“INTEREST ON SECURITY (CONSUMPTION) AND SECURITY (METER)

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%.”

- (vii) The Forum had wrongly interpreted the Regulations of Supply Code 1st amendment while deciding the case that interest was not payable from the date of deposit.
- (viii) The Forum had referred to the judgment of APTEL in their decision which was irrelevant in the case of the Appellant as the judgment of APTEL was applicable to the old cases pertaining to the period when Supply Code-2007 was applicable.
- (ix) The Forum had wrongly taken the view that Security (Consumption) deposited by the Appellant was Initial Security and interest on it was not payable, whereas there was no such term as Initial Security in the Supply Code-2014, perhaps the Forum had failed to apply its mind in true spirit of the Regulations while deciding the case.
- (x) The Respondent had failed to credit the interest amount in time as per Regulation 17.2 so the Appellant is also entitled to get interest as per Regulation 17.3.
- (xi) The Appellant had prayed that orders may please be passed directing the Respondent to pay interest on Security from the date of deposit as per Regulation 17.1, 17.2 & 17.3 of Supply Code-2014.

(b) Submission during hearing

During hearing on 25.10.2021, the Appellant's Representative reiterated the submissions made in the Appeal and prayed to allow the same.

(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 Large Supply Category connection bearing Account No. 3002309638 with sanctioned load of 16000 kW and CD as 16000 kVA.
- (ii) The Respondent countered the claim of the Appellant that interest should have been given from date of deposit as per Regulation 17.1 of Supply Code 2014.
- (iii) Regulation 17 of Supply Code-2014 upto 4th and 7th Amendment is reproduced below:

“17. INTEREST ON SECURITY (CONSUMPTION) AND SECURITY (METER)

17.1 The distribution licensee shall pay interest on Security (consumption) and Security (meter) at the Bank Rate (as on 1st April of the year for which interest is payable) as notified by RBI.

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%.”

Therefore, it was not mentioned in the Regulation 17 that interest is to be paid from date of payment of Security.

Interest on Security (Consumption) is paid to the consumer only after the release of new connection or on release of extension in load.

- (iv) As per the 4th and 7th Amendments of Supply Code-2014, there was no such Regulation for payment of interest on Security from the date of payment of Security. Therefore, the question of wrong interpretation of Regulations by CGRF does not rise.
- (v) The current Rules & Regulations of PSPCL also does not allow crediting of the interest on Security from the date of deposit of Security. Therefore, the judgment of APTEL is applicable in this case also.

- (vi) In Supply Code-2014, the words Security (Consumption) and Security (Meter) were used. Therefore, Initial Security as well as additional Security shall be treated in the same way for the purpose of credit of interest on Security.
- (vii) Interest on ACD amounts, deposited by the Appellant from time to time, had already been given by the Respondent as per Regulation 17.1 of Supply Code-2007 and Supply Code-2014 as amended from time to time and no further interest is payable to the Appellant.
- (viii) It was prayed that further interest was not payable to the Appellant so the appeal of the Appellant was liable to be dismissed.

(b) Submission during hearing

During hearing on 25.10.2021, the Respondent reiterated the submissions made in the written reply to the Appeal and prayed to dismiss the Appeal. The Respondent was asked to produce the regulations/ instructions on the basis of which interest was given on Securities from the date of release of extension in load rather than dates of deposit but he failed to produce/ submit any document in support of his contention.

5. Analysis and Findings

The issue requiring adjudication is the legitimacy of the demand of the Appellant to pay interest on Security from the date of deposit as per Regulation 17.1, 17.2 & 17.3 of Supply Code-2014.

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

- (i) The Appellant's Representative (AR) pleaded that the Appellant was having Large Supply Category connection bearing Account No. 3002309638 with sanctioned load of 2500 kW and CD of 2500 kVA with Security (Consumption) as ₹ 69,85,544/- and Security (Meter) as ₹ 33750/-. The Appellant applied for extension of load from 2500 kVA to 16000 kVA and deposited additional Security of ₹ 2,02,50,000/- during the period from 31.08.2018 to 17.09.2019. The extension in load was released on 11.01.2021. The Respondent, instead of paying interest on the additional Security from the date of deposit of Security as per Regulation 17.1 of Supply Code-2014, actually paid from the date of release of extension in load resulting in lesser payment of ₹ 15,68,939/- upto 31.03.2021. The Appellant also pleaded that Respondent should also pay penal

interest as per Regulation 17.3 of Supply Code-2014 on the amount of lesser paid interest. The Appellant filed its grievance before the Forum (CGRF) vide Case No. CGP-179 of 2021. But no relief was given by the Forum.

- (ii) The Respondent argued that the Appellant had already been given the interest on ACD/ Security (Consumption) and Security (Meter) amounts deposited by the Appellant from time to time as per Regulation 17.1 of Supply Code-2007 and Supply Code-2014 as amended from time to time and no further interest was payable to the Appellant. The Respondent controverted the claim of the Appellant that interest should have been given from date of deposit as per Regulation 17.1 of Supply Code, 2014. The Respondent further pleaded that the judgment of Appellate Tribunal for Electricity in Appeal No. 298 of 2014 was applicable in this case also. No further interest was payable to the Appellant, so the Appeal of the Appellant was/ is liable to be dismissed.
- (iii) The Forum while considering the case had observed that after the amendment in Regulation 17.1 as per the Electricity Supply Code and Related Matters (1st Amendment) Regulations, 2016, interest on security amounts was not payable from the date of

deposit of such amounts. Regulation 17.1 of Supply Code, 2014 after 1st amendment is as below:-

“17.1 The distribution licensee shall pay interest on Security (Consumption) & Security (Meter) at Bank Rate (as on 1st April of each year) as notified by RBI.”

Above regulation did not debar the Respondent to pay interest on Security (Consumption) & Security (Meter) from the date of deposit. The Respondent had not produced any document/regulation where it was mentioned that the interest on Securities deposited before release of Extension in Load was payable only from the date of release of Extension in Load. This Court is not inclined to agree with this finding of the Forum.

- (iv) The Forum further observed that as per the judgment of Appellate Tribunal for Electricity in Appeal No. 298 of 2014, interest was not payable on the initial security which was all along separate and distinct security meant for specific purpose before the release of connection and after release of connection, the applicable two securities, namely Security (Consumption) and Security for line/plant/meter were entitled for interest and so the same was being paid by the Distribution Licensee. So, no interest amount on ACD/ Security (Consumption) and Security (Meter) was payable until the connection or extension of load was released. This Court is not inclined to agree with this

finding and decision of the Forum. This Court had studied the said judgment and found that this judgment was applicable to the cases on which Supply Code-2007 was applicable. Supply Code, 2007 stands repealed with effect from 01.01.2015. Further, Supply Code-2007 was not applicable on the present Appeal case which was covered under Supply Code, 2014. Also, the said judgment was on the following two issues:-

- a) *Whether the State Commission was justified in holding that the interest was payable on the security deposit furnished by consumers in terms of Regulation 14 of Supply Code Regulations, 2007?*
- b) *Whether the State Commission was justified to entertain the dispute between an individual consumer and the licensee particularly when the subject matter falls under part-VI of the Electricity Act, 2003?*

The judgment on 1st issue was given on the basis of Initial Security as contained in Regulation 14 of Supply Code-2007 which stood repealed now and Supply Code, 2014 was applicable with effect from 01.01.2015. INITIAL SECURITY as per regulation 14 of Supply Code, 2007 was not applicable now and this was removed/ modified in Regulation 14 of Supply Code-2014. This judgment of APTEL was based on various regulations of Supply Code, 2007 which stood repealed. PSERC had made many

changes & modifications in the Supply Code, 2014 and the case was required to be decided on the basis of these regulations. There is no provision of INITIAL SECURITY in the Supply Code, 2014. Security (Consumption) deposited by the Appellant before release in Extension of load cannot be termed as INITIAL SECURITY. The judgment of APTEL relating to issue (i) is not applicable in the present case. Regarding 2nd issue, the Honorable Appellate Tribunal decided that the matter should be adjudicated by the CGRF/ Ombudsman constituted u/s 46 (v) and 46 (vi) of the Electricity Act, 2003. The present case is now being adjudicated by the Ombudsman.

Regulation 14 of Supply Code, 2014 is relevant in this case which is reproduced below:-

“14. SECURITY (CONSUMPTION) The applicant seeking supply of electricity as per regulation 6 of these Regulations shall initially be required to pay to the distribution licensee an amount on kW/ kVA basis as specified in the Schedule of General Charges approved by the Commission, as Security (consumption) towards estimated electricity likely to be supplied after release of connection. However, in case of applicants with demand exceeding 100 kVA, 25% of Security (consumption) (inclusive of EMD

deposited at the time of feasibility clearance) be deposited at the time of registration of A&A form and remaining Security (consumption) be deposited at the time of compliance of demand notice.

The applicant seeking sanction of additional load/ demand shall be required to deposit Security (consumption) computed only for the additional load/ demand at the slab rate applicable to the total load/demand”.

Security (Consumption) was recovered from the Appellant as per above regulation while processing the case for extension in load.

Interest was payable in respect of amount recovered from the Appellant as Security (Consumption) before release of extension in load as per provisions of Regulation No. 17.1 of Supply Code, 2014. The interest shall be payable from the date of deposit of the Security (Consumption). The Respondent had not submitted any documents in respect of his contention that interest on Securities was payable only from the date of release of extension in load.

6. Decision

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

- a) the order dated 17.09.2021 of the CGRF, Patiala in Case No. CGP-179 of 2021 is set aside;
- b) the Respondent shall pay interest on Security (Consumption) from the dates of deposit as per Regulation No. 17.1 of Supply Code, 2014.

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.

October 25, 2021
S.A.S. Nagar (Mohali)

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