**IN THE COURT OF LOKPAL (OMBUDSMAN), ELECTRICITY, PUNJAB,**

**66 KV GRID SUBSTATION, PLOT NO. A-2, INDL. AREA,PHASE-I,**

**SAS NAGAR( MOHALI).**

**APPEAL No: 35/2017 Date of Order: 27.09.2017**

Mrs. Kiran Sharma

C/o K.S. Steel Tubes

Amloh Road

Mandi Gobindgarh,

Tehsil Amloh, Distt. Fatehgarh Sahib

….. PETITIONER

**Account No. K21GB42-61413**

*Through:*

Sh. R.S. Dhiman, Petitioner’s Representative (PR)

VERSUS

PUNJAB STATE POWER CORPORATION LIMITED

 …..RESPONDENT

*Through:*

Er. Amandeep Singh Gill

Additional. Superintending Engineer

“Operation” Division

PSPCL, Mandi-Gobindgarh

Petition No: 35 / 2017 dated 13.07.2017 was filed against order dated 26.05.2017 of the Consumer Grievances Redressal Forum (CGRF) in case No. CG-39 of 2017, deciding that:

*“no interest on Security (Consumption) is payable to the petitioner. Further, S.E/”OP” Circle, PSPCL, Khanna is directed to initiate disciplinary action against Shri Harbhajan Singh, AJE for giving wrong information that the premises of the consumer was locked so that the CT/PT unit and Meter could not be disconnected and returned in time.”*

2. Arguments, discussions and evidences on record were held on 27.09.2017.

3. Shri R.S. Dhiman, Petitioner’s Representative (PR) attended the court proceedings on behalf of the Petitioner. Er. Amandeep Singh Gill, Addl. Superintending Engineer / “Operation” Division, PSPCL, Mandi-Gobindgarh alongwith Shri Bipn Dhingra, Revenue Accountant, appeared on behalf of the Respondent – Punjab State Power Corporation Limited (PSPCL).

4. At the outset, the PR made a request for condoning the delay of 15 days due to the reasons that:

*a) the decision of CGRF (Forum) had not been*

 *received till 13.07.2017,*

b) *a copy of this decision attached with the appeal*

 *was down-loaded from internet,*

*c) Forum and DS authorities refused to give a copy*

 *of the decision to the Petitioner,*

*d) the appeal was filed immediately after retrieving the*

 *decision of Forum from the internet.*

He prayed that the delay of a few days may be condoned and appeal be heard on merits in the interest of justice.

Commenting on the issue of condoning the delay in filing the

Appeal, Er. Amandeep Singh Gill, Addl. S.E. / “OP” Division stated that:

1. *a) the averments made by the Petitioner are invariably*
	1. *false and can not be relied upon,*
2. *b) it is well known that the decision of the CGRF was*
	* + - 1. *uploaded on its website on 05.06.2017 as confirmed by*
				2. *CGRF,*
3. *c) no evidence in support of contention of not giving copies*
4. *of the said decision by the Forum and DS authorities has*
5. *been submitted by the Petitioner,*

*d) the present application for condoning the delay in filing the Appeal is not tenable and may be rejected,*

*e) even otherwise, the Appeal is not maintainable on merit and deserves dismissal.*

I find that Regulation 3.18 (ii) of the PSERC (Forum & Ombudsman) Regulations-2016 provides that representation to Ombudsman is to be made within one month from the date of receipt of the order of the Forum. In the present case, the decision was sent to the Petitioner through Registered post on 30.05.2017 which should have been received by it by 05.06.2017. Therefore, the Appeal was required to be filed by 04.07.2017 but the same was filed on 13.07.2017 and thus, not filed within the stipulated period. Though, no cogent reasons / evidence for this delay have been given by the Petitioner but rejecting the appeal only on this ground will not meet the ends of the ultimate justice and deprive the Petitioner of the opportunity to argue its case on merits. In view of the natural justice and affording the Petitioner an opportunity to be heard, the delay of nine days is condoned and the Petitioner is allowed to present the case.

5. Presenting the case on behalf of the Petitioner, Shri R.S. Dhiman, PR stated that the Petitioner was having an industrial connection of Large Supply (LS) category at Amloh Road, Mandi-Gobindgarh in the name of Mrs. Kiran Sharma C/o K.S. Steel Tubes with sanctioned load of 499.236kW and Contract Demand of 555 kVA was running under the jurisdiction of DS Division of PSPCL, Mandi-Gobindgarh. All electricity bills were being paid by the Petitioner regularly.

He further stated that on 16.4.2012, the Petitioner submitted and got received an application in the office of AEE (Commercial), PSPCL, Mandi-Gobindgarh requesting for Permanent Disconnection of its connection and refund of the Security (Consumption) and Security (Meter). On this, a final bill for Rs 82,159/- was issued by the Respondent, which was paid by the Petitioner on 18.04.2012 and the connection was disconnected permanently on the same day i.e. 18.04.2012. Though the connection was disconnected but Security (Consumption) was not refunded despite repeated requests made to the AEE (Commercial) office by the Petitioner. After the Petitioner submitted an application dated 01.06.2015 and subsequently met the CMD, PSPCL in June 2016, it was asked by the officials to submit a fresh application. As advised, the Petitioner submitted a fresh application and some other documents required for the purpose on 15.6.2016. On this, a sum of Rs 7,60,110/- was refunded to the Petitioner vide Cheque No. 942704 dated 28.06.2016. While refunding this amount, interest on Security (Consumption) and Security (Meter) was paid up to 18.04.2012 only. On the refusal of Respondent to pay interest upto 28.6.2016, the Petitioner moved a representation before CGRF (Forum) of PSPCL Patiala, but the Forum allowed the interest on Security only upto the date of disconnection (18.04.2012).

While submitting the grounds for appeal, the PR further stated that as per Regulation 18.3 of Supply Code-2007, the Respondents were required to refund Security (Consumption) and Security (Meter)within one month of the date of termination of the agreement. In the event of failure to do so, interest was payable in accordance to Regulation 18.4 of Supply Code-2007. In the present case, delay was on the part of Respondent to refund Security to the Petitioner. As such, there was no reason to deny the penal interest as per Regulation ibid.

He further stated that it was wrong that the Petitioner did not apply for refund of Security before 15.6.2016. Request for refund of Security was contained in the same application which was moved by the Petitioner on 16.4.2012 for permanent disconnection of supply. The Respondent disconnected the connection in response to this application on 18.04.2012 but did not refund the Security. Besides, the plea of the Respondent showing inability to dismantle 11kV / 110V, CT / PT from the Petitioner’s premises as the same was locked, had been found wrong. The Respondent admitted that the AJE concerned was telling lies in this regard. Action had been initiated against the AJE for this.

 The PR further stated that the change of Partnership of K.S. Steel Tubes had been wrongly dragged into the arena of this dispute as this firm had nothing to do with PSPCL. The connection was in the name of Mrs. Kiran Sharma, and therefore, she alone has signed agreement with PSPCL. She alone was responsible in all matters relating to her connection. He prayed to allow the appeal.

6. Defending the case on behalf of the Respondent, Er. Amandeep Singh Gill, Addl. S.E. stated that Mrs. Kiran Sharma was the consumer of PSPCL having Account No. K21GB42-61413. Her connection was disconnected on 18.04.2012 on her own request. The Petitioner applied for refund of Security on 15.06.2016. The Petitioner, in her application, had not mentioned about any application of refund filed in this office earlier than this application.

 The Respondent also stated that 11kV / 110V, CT / PT unit & Meter were removed from the Petitioner’s premises on 09.06.2016. The Petitioner completed all the formalities for refund of Security on 15.06.2016. The refund of Security (Consumption) of the Petitioner was made on 28.06.2016 for Rs. 7,60,110/- including interest upto 18.04.2012 i.e. upto the date of disconnection.

 He also stated that the A&A form submitted by the Petitioner at the time of release of connection was in the name of Mrs. Kiran Sharma wife of Sh. Ashok Sharma as applicant in her individual capacity. The Petitioner, vide affidavit dated 17.06.2016, also admitted that Electric Connection, bearing Account No. K21GB42-61413 was running in her individual name in the premises of K.S. Steel Tubes, Amloh Road, Mandi-Gobindgarh which stood disconnected permanently and the Petitioner requested to refund the Security (Consumption) lying with PSPCL. However, the Petitioner submitted a Partnership Deed dated 01.04.2009 in which two more partners, in addition to Mrs. Kiran Sharma, were admitted but, no change in the constitution of the entity was got noted or intimated to the Respondent - PSPCL. Further, vide Dissolution Deed dated 04.04.2016, the Petitioner (Mrs. Kiran Sharma), the original consumer of the PSPCL ceased to exist as the partner of the firm as the firm made a new Partnership Deed dated 05.04.2016 in which Mrs. Kiran Sharma, the original consumer of PSPCL was not a partner. The Respondent further stated that there is one decision where the Circle Level Dispute Settlement Committee has given its verdict to provide interest till the date of PDCO because Security is *“Security against consumption”* and once consumption stops, the Security against consumption ceases to be Security against consumption and therefore, interest is to be paid only up to the date till the Electricity Consumption continues at the consumer’s end. This fact was put-up to CGRF which took its cognizance. Further, the refund of Security is given once the consumer asks for it, as there was a possibility that the consumer may get the connection reconnected when there are favourable industrial environment. Once, a consumer (Petitioner) asked for refund on 15.06.2016, its Meter & 11kV / 110V, CT / PT unit were got checked in ME Lab on 15.06.2016. Last payable amount could only be ascertained after checking of accuracy of meter / CT / PT unit in ME lab. So, in quick response to Petitioner’s request, the amount was refunded to it with interest up to the date of disconnection at the earliest. Since, there was no delay on the part of PSPCL to refund the amount, so no interest was to be paid to the consumer after the connection ceased to exist. The Security (Consumption) was Security against Consumption, hence, interest was to be given up to the date when the consumption was there. He also stated that the consumer never demanded the refund before 15.06.2016 when it was demanded, it was given promptly without any delay. So, no interest is payable after the date of disconnection. Moreover, it was wrong that the Petitioner applied for refund of Security before 15.06.2016. The copy, which the consumer has shown is, post fabricated document and is not actual letter, on the basis of which the connection was got disconnected.

 He also stated that as per Regulation 11.6.1 of Electricity Supply Code-2014, a consumer shall not, without the consent in writing of the Distribution Licensee, assign, transfer or part with the benefit of the agreement for obtaining a connection. The consumer shall also not in any manner part with or create any partial or separate interest except in the event of:

1. *a) Change in partnership (after supplying a certified copy*

 *of the new partnership deed and execution of a new*

 *agreement).*

1. *Change in the name of a company (after supplying a*

 *certified copy of the new Memorandum of Association*

 */ Articles of Association along with supporting documents*

 *and execution of a new agreement).”*

 He also stated that as per Regulation 11.6.2 of Electricity Supply Code-2014, a consumer may transfer the connection and its liabilities to any other person with the consent of the Distribution Licensee. After obtaining such consent, the transferee shall execute a new agreement on the A&A form and shall deposit the Security (Consumption) and Security (Meter) at the prevalent rates after accounting for the Security (Consumption) and Security (Meter) already deposited by the previous consumer with his consent. The new consumer shall also undertake to pay / bear the current and past outstanding liabilities of the old consumer or those detected in the future.

The Respondent also stated that since the Petitioner parted with the connection without any knowledge of PSPCL, thus it is not entitled for any benefits claimed. The refund of Security (Consumption) and Security (Meter) was given wrongly to the firm without taking this fact into account. Since the Petitioner – Mrs. Kiran Sharma ceased to be the partner since 05.04.2016, she is not eligible to claim interest now. So, this petition is wrong and filed with a malafide intention and should be dismissed.

**7. Decision:**

 The relevant facts of the case are that the Petitioner was having an industrial connection of Large Supply category in the name of Mrs. Kiran Sharma in the premises of K.S. Steel Tubes, Mandi-Gobindgarh with a Sanctioned Load of 499.236kW with Contract Demand of 555kVA. The Petitioner submitted an application on 16.04.2012 in the office of the AEE (Commercial), PSPCL, Mandi-Gobindgarh for permanent disconnection of Electric Connection and refund of Security and has brought on record a copy thereof duly receipted (contested by Respondent as fabricated) in the Sub Divisional Office. On receipt of the said application, a final bill of Rs. 82,159/- was issued by the Respondent and the same was paid on 18.04.2012 and the connection was permanently disconnected on the same day. Thereafter, the Petitioner statedly visited the said Sub Divisional Office repeatedly and also made references vide letters dated 15.10.2013, 22.04.2015 and 01.06.2015. It was only after meeting with CMD, PSPCL in June 2016 that the Petitioner was advised to submit fresh application for refund of Security alongwith other documents required which the Petitioner submitted on 15.06.2016.The Petitioner completed other formalities on 17.06.2016. In the meantime, the Meter and CT / PT unit were removed on 09.06.2016 and got checked from ME Lab on 15.06.2016 where the metering equipment was found in order and had accuracy within limits. Finally, a sum of Rs. 7,60,110/- was paid on 28.06.2016 on account of refund of Security (Consumption) and Security (Meter) amount including interest upto 18.04.2012 i.e. the date of disconnection. On the refusal of the Respondent to pay interest upto 28.06.2016, the Petitioner approached the CGRF which decided the matter on 26.05.2017 that no interest on Security was payable to the Petitioner.

I have gone through written submissions made by the Petitioner in the Petition, written reply of the Respondent as well as oral arguments made by the PR and representative of the Respondent - PSPCL alongwith the materials brought on record by both the parties. The issue requiring adjudication is whether the Petitioner is entitled to interest on delayed refund of Security (Consumption) and Security (Meter) as per applicable regulations?

 My findings on the points emerged during the course of hearing are as follows:-

1. A perusal of material brought on record by the Respondent clearly reveals that there is no truth in its contention that the Petitioner did not apply for refund of Security before 15.06.2016 and also that the copy, which the Petitioner had attached with the application, was a post fabricated document and was not the actual letter on the basis of which the connection was got disconnected. I noticed that the application ibid (dated 15.04.2012) of the Petitioner requesting both for permanent disconnection and refund of Security was lying in their record.
2. The Petitioner’s Representative argued and Respondent admitted that it was only after the Petitioner submitted an application dated 01.06.2015 and subsequently met the CMD, PSPCL, in June, 2016 that the Petitioner was advised to submit a fresh application for refund of Security and accordingly, the Petitioner submitted a fresh application on 15.06.2016 and completed other formalities including furnishing of an Affidavit whereafter Security amounting to Rs. 7,60,110/- was refunded on 28.06.2016 by the Respondent allowing interest upto the date of disconnection, i.e. 18.06.2012. It is thus beyond any doubt that the concerned office of the Respondent did not act of its own and swung into action only on intervention by the higher authority.
3. The Respondent failed to respond to PR’s argument during the hearing that a consumer was not required to apply for refund of Security (Consumption) and Security (Meter) after permanent disconnection of the connection and if there were instructions to the contrary, the same may be placed on record.
4. The Respondent’s failure to discharge its obligations by not monitoring or keeping a track on events affecting settlement of accounts is also proved by the fact that the Respondent had already initiated disciplinary action against the AJE concerned in compliance to orders dated 13.07.2017 of CGRF for giving wrong information that the premises of the consumer was locked so that CT / PT unit and the meter could not be disconnected and returned in time.
5. I find merit in the contention of the PR that interest was required to be paid upto the date of refund of Security i.e. 28.06.2016 in terms of Regulation 18.3 of Electricity Supply Code-2007 which lays down that Respondent were required to refund Security (Consumption) and Security (Meter) within one month of date of termination of agreement and in the event of failure to do so, interest was payable in terms of provisions contained in Regulation 18.4 of Electricity Supply Code-2007. As the agreement ceased to exist after the disconnection of Electric Connection on 18.04.2012 on the specific request of the Petitioner, the Respondent had to ensure completion of the requisite formalities and authorized refund of Security latest by 17.05.2012.
6. The Respondent raised objection on the title of the Petitioner

(Kiran Sharma) to claim interest on refund of Security by arguing that since Mrs. Kiran Sharma (the original consumer) ceased to be a partner in the firm (which made a new Partnership Deed on 05.04.2016) and she parted with the connection without the knowledge of the PSPCL, she was not entitled for any benefit claimed and refund of Security was wrongly given. In my view, this contention and also the Regulations 11.6.1 and 11.6.2 of Electricity Supply Code-2014 have been quoted out of context and are not applicable to the facts of the case as the connection was in the name of Mrs. Kiran Sharma and the firm had nothing to do with this connection. Accordingly, Kiran Shama is entitled to stake claim in matters related to the connection in her own name.

As a sequel of above discussions, it proves beyond doubt that the Respondent defaulted in complying with the provisions laid down in Regulation 18.3 of Electricity Supply Code-2007 by not refunding the Security within one month of the termination of agreement and is thus liable to pay interest on such refund on such period of delay at twice the short term PLR prevalent on the first of April of relevant year. However, in my view, the provisions contained in Regulation 33.2, 33.3 and 33.4 of supply Code-2014 as revised upto date are applicable in this case and

are reproduced below:-

***“33.2:*** *A consumer may also request the distribution licensee for disconnection of supply and termination of agreement from a future date. On receipt of such a request, the supply shall be disconnected by the distribution licensee on the requested date and consumer served a bill for the period up to date of termination.”*

***“33.3****: On termination of the agreement mentioned above, the consumer shall pay to the distribution licensee all sums due under the old agreement as on the date of its termination.”*

***“33****.4: Where an agreement for supply of electricity is terminated as per the provisions of the Supply Code, the distribution licensee shall refund the Security (consumption) and Security (meter), after making adjustments for the amounts outstanding against the consumer within one month of the date of termination of the agreement. If a refund due is delayed beyond a period of one month of termination of the agreement, the distribution licensee shall, without prejudice to other rights of the consumer, pay interest on such refund for such period of delay at Bank Rate ( as on 1st April of each year) as notified by RBI plus 4%.”*

Accordingly, the Respondent is directed to pay the interest for the period of delay (18.05.2012 to 28.06.2016) as per provisions contained in Regulation 33.4 of Supply Code-2014.

8. The appeal is disposed off accordingly.

9. In case, the Petitioner or the Respondent (Licensee) is not satisfied with the above decision, they are at liberty to seek appropriate remedy by filing an Appeal before the Appropriate Bodies in accordance with

Regulation 3.28 of Punjab State Electricity Regulatory Commission (Forum & Ombudsman) Regulations - 2016.

 (VIRINDER SINGH)

LokPal (Ombudsman) ,

Place: SAS Nagar (Mohali) Electricity, Punjab,

Date: 27.09.2017 SAS Nagar (Mohali)