IN THE COURT OF THE LOKPAL (OMBUDSMAN),

ELECTRICITY, PUNJAB,

66 KV GRID SUB-STATION, PLOT NO. A-2,

INDUSTRIAL AREA, PHASE-1, S.A.S NAGAR (MOHALI)

Appeal No. 41 / 2017 Date of Order : 27.10.2017

Raj Kumar

C/o G. Packers,

Dhanaula Road,

Village : Dhanaula,

Distt Barnala.

…….Petitioner

Account No. 3002965240

*Through:*

Shri Raj Kumar (Petitioner)

Shri Sudarshan Gupta Petitioner Counsel (PC)

Versus

Punjab State Power Corporation Limited

…..Respondent

*Through:*

Er. Pawan Kumar Garg

Additional Superintending Engineer

DS Sub-urban Division

PSPCL, Barnala.

Petition No. 41 / 2017 dated 01.08.2017 was filed against order dated 30.06.2017 in case No. CG-71 of 2017 of the Consumer Grievances Redressal Forum (Forum) which passed orders “with the direction to the Respondent to recover the amount of Rs.25,40,812/- from the Petitioner alongwith interest and surcharge in six equal monthly instalments along with current bills as per instructions of the Corporation, as requested by the PR.”

1. Arguments, discussions and evidence on record were held on 27.10.2017.
2. Shri Raj Kumar, Petitioner and Shri Sudarshan Gupta (PC), attended the Court proceedings on behalf of the Petitioner. Er. Pawan Kumar Garg, Addl. Superintending Engineer alongwith Shri Pardeep Sharma, AE, DS Sub-urban Sub-Division, PSPCL, Barnala appeared on behalf of the Respondent Punjab State Power Corporation Limited (PSPCL).

4. Presenting the case on behalf of the Petitioner, PC stated that the connection was installed in the premises as Medium Supply (MS) connection having sanctioned load of 71.400kW which was extended to Large Supply (LS) category connection having sanctioned load of 329kW with Contract Demand of 365.550kVA on 27th October, 2015. PC stated that the Energy Meter was checked by the MMTS on 10.03.2017 and intimated that billing to the consumer was being done with Multiplication Factor (MF) of 0.4 and the same who required to be corrected The connection was checked regularly by the staff of the Distribution Licensee. The bills were raised by the Distribution Licensee and were regularly paid by the Petitioner. The Respondent raised the arrear bill of Rs. 25,40,812/- on account of wrong application of Multiplication Factor (MF). PC stated that the Petitioner, being a commercial concern calculated the cost of production and the stocks were sold accordingly. Now exorbitant bills were being raised and arrears were claimed from the Petitioner which was against the principle of natural justice. PC further stated that in case there was any negligence on the part of the officials of the Licensee, the recovery should be made from them. The PC alleged that the PR, who was authorized to present and argue the Petitioner’s case in the Forum, was an ex-employee of the Distribution Licensee (Respondent) and by using its dominant position, the Respondent got recorded the consent of PR for depositing the disputed amount despite the fact that the PR never got the consent of the Petitioner. The Multiplication Factor (MF) mentioned on the Energy Meter was written as One, so, the contention of the Respondent was wrong and was violative of Supply Code Regulations. The Forum did not consider the arguments and decided to recover the amount alongwith interest and surcharge. Hence, the order of the Forum was not sustainable in the eyes of Law and the demand of the Respondent was liable to be quashed.

5. Defending the case on behalf of the Respondent, Er. Pawan Kumar Garg, Addl. S.E., DS Sub-urban Division, PSPCL, Barnala stated that the appeal had been filed by the Petitioner, without any merit. The matter had already been disposed off, by the Consumer Grievance Redressal Forum (CGRF), Patiala, vide its order dated 30.06.2017, which was passed in line with the written consent of the PR. The Respondent stated that, in this appeal, the Petitioner wrongly alleged that the PR in the Forum got recorded his consent during the proceedings held on dated 30.06.2017 for depositing the disputed amount by using its dominant position, without actually getting the consent of the Petitioner who was not present in the Forum on the said date. The Respondent submitted that when the Petitioner had been duly represented by the above mentioned PR, then, the said PR had done every thing on behalf of the Petitioner and only in the interest of the Petitioner. Accordingly, the said PR did its job, for the benefit of the Petitioner, after understanding and going through all the facts of the dispute and admitted the correctness of recoverable amount of Rs. 25,40,812/- and PR requested for recovering the same in six equal monthly instalments alongwith current bills which can not be stated without consent of the Petitioner.

The Respondent also stated that on 27.10.2015, the load of the Petitioner’s connection was extended from 71.400kW to 329 kW / 365.550kVA converting the category of connection from MS to LS. The electricity bills prepared, for the period from October 2015 to June 2016, were not correctly prepared, due to some technical problem. After June, 2016, the electricity bills of the consumer could not be prepared in SAP System, due to some technical problem. However, some manually prepared bills were issued. As such, the amount of the bills, after June 2016, were not in dispute.

The Respondent further stated that after rectifying the above mentioned technical problem, the correct bills were issued to the Petitioner. The total billing amount for the period from 27.10.2015 to 31.05.2017, had been assessed as Rs. 93,14,294/- against which a sum of Rs. 67,73,482/- had been deposited by the Petitioner. As such, an amount of Rs.25,40,812/- was the recoverable amount from the Petitioner, for which the above said representative of the Petitioner had given its consent in the Forum to deposit the same in six equal instalments. The Respondent prayed that the Appeal may be dismissed and the Petitioner be directed to comply with the order dated 30.06.2017 of the Forum.

**Decision:**

6. The relevant facts of the case are that the Petitioner, having a MS category connection with sanctioned load of 71.400kW, got its load extended to 329kW / 365.550kVA, on 27.10.2015 coupled with the change of MS category connection to LS category connection. The Metering was being done by providing Energy Meter of capacity 5 / 5 Amp and 11KV / 110V, 20 / 5 Amp CT / PT unit. The connection was checked by the MMTS on 16.03.2017 vide ECR No. 46 / 480 in the presence of the then consumer’s representative and it was found by MMTS that the billing was done from October, 2015 to June, 2016 by applying MF as 0.4 incorrectly despite the fact that MF to be applied was 4 ( 20 / 5). Based on the checking by MMTS, the Respondent resolved the technical problems in the billing system and re-assessed the dues and raised a demand of Rs. 93,14,294/- for the period from 27.10.2015 to 31.05.2017. Against this demand, the Petitioner had deposited Rs. 67,73,482/-, leaving balance amount recoverable as Rs. 25,40,812/-. Not satisfied with the demand, the Petitioner filed a Petition before the Forum which heard the case on 30.06.2017 but the Petitioner was not present on that day. However, the Petitioner’s Authorized Representative attended the hearing and after deliberating the matter, got recorded its consent that the amount of Rs. 25,40,812/- recoverable from the Petitioner upto 31.05.2017, was correct and may be recovered from the Petitioner in six equal monthly instalments alongwith current bills. Accordingly, the Forum closed the case on the same day i.e. 30.06.2017 and decided to direct the Respondent to recover the above amount from the Petitioner alongwith interest and surcharge (for which PR had not consented) in six equal monthly instalments alongwith current bills as per rules of Respondent (PSPCL). The Petitioner was not satisfied with the decision of the Forum and preferred an Appeal before this Court mainly on the plea that its Authorized Representative had given the consent for recovery in six monthly instalments of his own and without actually having the consent of the Petitioner who was not present in the Forum on that day i.e. 30.06.2017. The Petitioner has pleaded that the order dated 30.06.2017 of the Forum was thus not sustainable in the eyes of Law.

I have gone through the written submissions made by the Petitioner in the petition and written statement of the Respondent as well as oral arguments of Petitioner’s Counsel and Representative of the Respondent alongwith material brought on record by both the sides. The issue requiring adjudication in the present dispute is the legitimacy of the amount charged, with interest and surcharge, to the Petitioner due to rectification of mistake in application of Multiplication Factor at a belated stage by the Respondent. My findings on the points emerged and deliberated are as under:

1. *I noted the contention of the PC that the Petitioner’s Authorised Representative, authorized to present and argue the case on its behalf in CGRF, was an ex-employee of Distribution Licensee (Respondent) and by using their dominant position, the Respondent got recorded the consent of Petitioner’s Authorised Representative for deposit of disputed amount without actually having the consent of the Petitioner who was not present in the Forum on 30.06.2017. I have gone through the proceedings dated 30.06.2017 of the Forum and observed that the case was deliberated and disposed off by the Forum after the then PR of the Petitioner, Shri Sukhminder Singh requested that the balance recoverable amount of Rs. 25,40,812/- be recovered from the Petitioner in six equal monthly instalments alongwith current bills. I also noted that the Petitioner, in the present case argued that the decision dated 30.06.2017 of Forum to close and dispose off the case without actually having consent of the Petitioner in writing was not fair. PC further contended that the Forum also issued directions vide its order dated 30.06.2017 to the Respondent to also recover interest and surcharge on the said amount which was against natural justice. I also noted that the Respondent defended the action and decision of the Forum. I am of the view that the case should be heard on merits and decided accordingly as discussed in the succeeding paras.*

*ii) I noted that the dispute arose after the connection of the Petitioner was checked by A.S.E, MMTS vide ECR no. 46 / 480 dated 10.03.2017 in the presence of the Petitioner’s Representative. During checking, the Enforcement noticed that the billing to the consumer was being done incorrectly by application of MF 0.4 instead of MF 4 as the Metering was being done by providing Energy Meter of Capacity 5 / 5 Amp and 11kV / 110V, 20/5 Amp CT / PT unit after the Petitioner’s MS category connection was changed to LS category on 27.10.2015 due to enhancement of load from 71.400kW to 329kW / 365.550kVA. The MMTS then advised the Respondent to make necessary corrections and charge the Petitioner by applying MF correctly.*

*In compliance to the above, directions, a sum of Rs. 93,14,294/- was worked out by the Respondent as chargeable from 27.10.2015 to 31.05.2017. PC argued that exorbitant bills were raised / claimed from the Petitioner against the principle of natural justice and in case, there was negligence on the part of the officials of the Licensee, the recovery should be made from them. PC also argued that MF mentioned on the Energy Meter was MF 1, so, contention of the Distribution licensee was wrong and there were gross violations of the Supply Code Regulations. PC further contended that the Forum did not obtain the report of the MMTS after up-gradation of the connection from MS to LS category, hence, the order of the Forum was not sustainable in the eyes of law and was liable to be quashed.*

1. *The Respondent, in its defence, argued that the appeal was filed without any merit. It, however, admitted that electricity bills for the period from October, 2015 to June, 2016 were not correctly prepared due to some technical problems for which the bill of the Petitioner was not prepared in SAP billing System and prepared manually.*

*The Respondent further stated that after resolving the aforementioned technical problem, the correct bills amounting to Rs. 93,14,294/- were issued against which, the Petitioner had deposited a sum of Rs. 67,73,482/- leaving balance amount of Rs. 25,40,812/- which was correct and recoverable.*

I observe that the provisions contained in Note below Regulation 21.5.1 of Supply Code - 2014 are relevant in this context and are reproduced below:

“**21.5.1:**

*If a consumer meter on testing is found to be beyond the limits of accuracy as prescribed hereunder, the account of the consumer shall be overhauled and the electricity charges for all categories of consumers shall be computed in accordance with the said test results for a period not exceeding six months immediately preceding the:*

1. *Date of test in case the meter has been tested at site to the satisfaction of the consumer or replacement of inaccurate meter whichever is late; or*
2. *Date the defective meter is removed for testing in the laboratory of the distribution licensee.*

***Note:*** *Where accuracy of meter is not involved and it is a*

*case of application of wrong multiplication factor, the*

*accounts shall be overhauled for the period this*

*mistake continued.”*

On perusing the provisions ibid, it proves beyond doubt that the Petitioner has been correctly charged and billed for the period from 27.10.2015 to 31.05.2017 with Multiplication Factor as 4 (Four). But, at the same time, it will be against the principle of natural justice to burden the Petitioner with interest and surcharge at a belated stage on the balance amount billed now and that billed earlier by the Respondent due to its own mistake and sheer negligence.

As a sequel of above discussions, I have no hesitation to set aside the decision dated 30.06.2017 of the Forum in case No. CG-71 of 2017. The Respondent are directed to recover the balance recoverable amount of Rs. 25,40,812/- for the period from 27.10.2015 to 31.05.2017 without interest and surcharge in six equal monthly instalments alongwith current bills.

7. The Appeal is disposed off accordingly.

8. If the Petitioner / Respondent is not satisfied with this decision they are at liberty to seek appropriate remedy against this order from 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,