

**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. 11/2024**

**Date of Registration : 09.05.2024**

**Date of Hearing : 24.05.2024**

**Date of Order : 06.06.2024**

**Before:**

**Er. Anjuli Chandra,  
Lokpal (Ombudsman), Electricity, Punjab.**

**In the Matter of:**

**M/s. Parkash Confectioners and  
Bakers Pvt. Ltd.,  
Jalandhar.**

**Contract Account Number: 3007672551 (NRS)**

**...Appellant**

**Versus**

**Addl. Superintending Engineer,  
DS Model Town Division, PSPCL,  
Jalandhar.**

**...Respondent**

**Present For:**

**Appellant: 1. Sh. Vijay Kumar,  
2. Sh. Anup Jain,  
Appellant's Representatives.**

**Respondent : Er. Tarun Iqbal,  
Asstt. Engineer/ Commercial,  
DS Model Town Division, PSPCL,  
Jalandhar.**

Before me for consideration is an Appeal preferred by the Appellant against the decision dated 09.04.2024 of the Corporate Consumer Grievances Redressal Forum, Ludhiana (Corporate Forum) in Case No. CF-069/2024, deciding that:

*“The claim of refund of Voltage Surcharge, as demanded in the present petition, is not allowed, being time barred as per Regulation no. 2.25(c) of Punjab State Electricity Regulatory Commission (Forum and Ombudsman) (2<sup>nd</sup> Amendment) Regulations, 2021.”*

## **2. Registration of the Appeal**

A scrutiny of the Appeal and related documents revealed that the Appeal was received in this Court on 09.05.2024 i.e. within the period of thirty days of receipt of the decision dated 09.04.2024 in Case No. CF-069/2024 of the CCGRF, Ludhiana. The Appellant was not required to deposit the requisite 40% of the disputed amount as this is a refund case. Therefore, the Appeal was registered on 09.05.2024 and copy of the same was sent to the Addl. Superintending Engineer/ DS Model Town Division, PSPCL, Jalandhar for sending written reply/ parawise comments with a copy to the office of the CCGRF, Ludhiana under intimation to the Appellant vide letter nos. 260-62/OEP/A-11/2024 dated 09.05.2024.

### **3. Proceedings**

With a view to adjudicate the dispute, a hearing was fixed in this Court on 24.05.2024 and intimation to this effect was sent to both the parties vide letter nos. 280-81/OEP/A-11/2024 dated 17.05.2024. As scheduled, the hearing was held in this Court on 24.05.2024 and arguments of both the parties were heard. The case was closed for pronouncement of the order.

### **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 deliberations made by the Appellant's Representative and the Respondent along with 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 NRS Category Connection, bearing Account No. 3007672551 with connected load of 109.51 kW for the last more than 16 years and getting the supply at 0.400 Voltage and never changed connected load/ demand. In 10/2021, the Appellant had reduced load/ CD to 95 kW/ 95 kVA respectively

and the connection was transferred in the name of M/s. Parkash Confectioners and Bakers Pvt. Limited.

- (ii) The Respondent had issued the bills to the Appellant upto February, 2016 according to the tariff issued from time to time and the billing was correct in all the way. But suddenly from the month of March, 2016 onwards bills were issued by including Voltage Surcharge and this Voltage Surcharge remained continued till December, 2020.
- (iii) The Appellant came to know that Voltage Surcharge levied was totally wrong and it was not payable by it. They visited the O/o Respondent number of times and requested verbally to discontinue the levy of Voltage Surcharge and gave them refund from 03/2016. But Appellant's verbal request was not acceded to by the official of Respondent. Then written requests dated 09.09.2021, 09.10.2021, 11.12.2021, 15.07.2022, 23.06.2023 and 16.11.2023 were given to the Respondent. PSPCL gave them refund from 01/2021 to 09/2021 only and directed them to approach the Appropriate Authority for further refund as the remaining period fall under audited period.
- (iv) As per the directions of the Respondent, the Appellant approached the Corporate Forum and the case was registered as T-03/2022. The Corporate Forum had disposed off the case on 23.06.2022 as the Respondent had admitted that the matter would be referred to

appropriate Refund Committee. But after the elapse of 16 months nothing was done or informed to the Appellant. Again the Appellant approached the Corporate Forum vide case No. T-42/2024. The Corporate Forum again disposed off the case with the direction to appropriate Refund Committee to decide the case within 2 months. But again the Refund Committee did not decide the case.

- (v) Being not satisfied with the proceedings of the Respondent, the Appellant had approached this Court vide Appeal No. A-07/2024. This Court had remanded back the case on 11.03.2024 with the directions to Corporate Forum to decide the case within time framed. In compliance to this order, the Corporate Forum registered the case as CF-069/2024 and without considering the Appellant's genuine demand rejected the case.
- (vi) Not being satisfied with the order dated 09.04.2024 of the Corporate Forum, the Appellant filed an Appeal before this Court.
- (vii) The Appellant was using the electricity supply with connected load of 109.51 kW for the last 16 years and was getting the supply at 0.400 Voltage and never changed connected load/ demand prior to 10/2021. In 10/2021 the Appellant had reduced load/ CD to 95 kW/95 kVA respectively.

- (viii) The bills were issued to the Appellant according to tariff orders issued from time to time upto February 2016 but suddenly from 03/2016 onwards bills were issued with the levy of Voltage Surcharge and this Voltage Surcharge remained continue till December, 2020.
- (ix) There was no provision to charge the Voltage Surcharge as per CC No. 13/2015 and CC No. 28/2020 as the Appellant's connection was prior to 31.03.2010. The date of connection was 30.08.2008. It was pertinent to mention here that the Appellant never changed the contract demand after 31.03.2010. So it was very much clear as per CC No. 13/2015 and CC No. 28/2020 that Voltage Surcharge was not chargeable to the Appellant's connection.
- (x) The Respondent had refunded the amount of Voltage Surcharge only from 01/2021 to 09/2021.
- (xi) The Corporate Forum had rejected the claim of the Appellant merely on the ground of that representation had not been made within 2 years from the date of cause of action i.e. 08.04.2016. It was pertinent to mention here that the Appellant had given the representation on 09.09.2021.
- (xii) It was the duty of the Respondent to issue correct bills as per Tariff Order issued from time to time. The Appellant should not be penalized for the errors of the Respondent. As there was time of

COVID-19 which remained approximately for 2 years i.e. from December, 2019 to September, 2021. The Appellant had submitted its 1<sup>st</sup> Application dated 09.09.2021 and gave number of reminders thereafter. The Hon'ble Supreme Court of India had directed in Miscellaneous Application no. 21 of 2022 and suo-moto writ petition (c) no. 3 of 2020 that period from 15.03.2020 till 28.02.2022 shall stand excluded for the purpose of limitation as may be prescribed under any general or special laws in respect of all judicial or quasi judicial proceedings. But Corporate Forum without considering the orders of the Hon'ble Supreme Court of India had rejected the application of the Appellant.

(xiii) There was no provision to charge to Voltage Surcharge as per CC No. 13/2015 Annexure 1 Clause 13.1 clearly mentioned that Exemption from levy of Surcharge shall continue as under:-

13.1 (vi) (b)

“DS/NRS/BS consumers existing as on 31.3.2010 catered at a voltage lower than specified in Supply Code, 2014 will be liable to pay surcharge only in case of any change in Contract Demand.”

(xiv) Further there was no provision to charge the voltage surcharge as per CC No. 28/2020 Annexure 1 Clause 13.1 which clearly mentioned that Exemption from levy of Surcharge shall continue as under:-

## 13.1 (iv) (b)

“DS/NRS/BS consumers existing as on 31.3.2010 catered at a voltage lower than specified in Supply Code 2014 will be liable to pay surcharge only in case of any change in Contract Demand.”

- (xv) Keeping in view the above, the Appellant requested this Court to direct the Respondent to refund the amount of voltage surcharge from 03/2016 to 12/2020 alongwith the interest as per rules and regulations of PSPCL.

**(b) Submission during hearing**

During hearing on 24.05.2024, the Appellant's Representatives (AR) 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 Respondent admitted that there was no provision to charge the Voltage Surcharge as per CC No. 13/2015. Annexure 1 clause 13.1 which clearly mentioned that Exemption from levy of Surcharge shall continue as reproduced below:-



13.1(vi)(b) “DS/NRS/BS consumer existing as on 31.03.2010 catered at a voltage lower than specified in Supply Code 2014 will be liable to pay surcharge only in case of any change in contract demand.”

(ii) The Appellant had submitted many request letters after 09/2021 to refund the Voltage Surcharge as per which the Voltage Surcharge refund from 12/2020 onwards was given to the Appellant. But Voltage Surcharge refund from 03/2016 to 12/2020 could not be given to the Appellant because this was audited period. Then the Appellant filed a Petition in the Corporate Forum, Ludhiana regarding Voltage Surcharge refund for the period from 03/2016 to 12/2020. Further, in the Appeal the Appellant had requested to reduce the period of COVID-19 from the limitation period and it was requested to consider the request of the Appellant.

(iii) Further there was no provision to charge the Voltage Surcharge as per CC No. 28/2020. Annexure 1 clause 13.1 which clearly mentioned that Exemption from levy of Surcharge shall continue as reproduced below:-

13.1(iv)(b) “DS/NRS/BS consumer existing as on 31.03.2010 catered at a voltage lower than specified in Supply Code 2014 will be liable to pay surcharge only in case of any change in contract demand.”

**(b) Submission during hearing**

During hearing on 24.05.2024, the Respondent reiterated the submissions made in the written reply to the Appeal and prayed for the dismissal of the Appeal.

**5. Analysis and Findings**

The issue requiring adjudication is the legitimacy of the claim of the Appellant for refund of Voltage Surcharge amounting to ₹ 14,00,000/- (approximately) levied to it for the period from 03/2016 to 12/2020 alongwith interest.

*My findings on the points that emerged and my analysis is as under:*

- (i) The Corporate Forum in its order dated 09.04.2024 observed as under: -

“Forum observed that in the month of 10/2021 petitioner applied for change of name from Smt. Parkash Kaur to the name of M/S Parkash Confectioners and Bakers Private Limited along with reduction in load from 109.510 KW/121.678 KVA to 95 KW/95 KVA. Prior to this reduction, although his sanctioned load was above 100 KW, he was being catered at LT supply due to which petitioner was being charged Voltage Surcharge with effect from 04.02.2016. Petitioner got his load reduced to 95 KW/95 KVA on 08.11.2021 after which charging of Voltage Surcharge was discontinued. Petitioner vide his letter dated 09.09.2021, 09.10.2021 & 11.12.2021 requested SDO/Commercial Model Town Jalandhar that there is no provision to charge voltage

surcharge in CC no. 13/2015, so same may be refunded from March/2016. Accordingly, Voltage Surcharge related to the current period i.e. after 21.12.2020 was refunded to him but the refund of period prior to 21.12.2020 was not given being audited period. Petitioner filed a case in Corporate CGRF, Ludhiana for the refund of Voltage Surcharge levied to him during the period from 04.02.2016 to 21.12.2020. During the proceedings dated 23.06.2022, Respondent admitted that voltage surcharge was charged to the petitioner after 03/2016 wrongly and stated that the case will be referred to the appropriate refund committee. Zonal Refund Committee, North Zone, Jalandhar in its hearing dated 31.10.2022 deferred the case until the committee formulated by SE/Regulation, PSPCL, Patiala submits its decision regarding the limitation period of this case. Zonal Refund Committee, North Zone, Jalandhar did not decide the case for a long period of about 16 months and petitioner again approached the Corporate CGRF, Ludhiana. Forum in its hearing dated 27.02.2024 referred the case back to Zonal Refund Committee, North Zone, Jalandhar with direction to decide the case within two months by taking up the matter with concerned authorities. Petitioner, instead of waiting for compliance of the decision of CCGRF by the Zonal Refund Committee, North Zone, Jalandhar, filed appeal in the Hon'ble Court of the Lokpal (Ombudsman), Electricity, Punjab. The Court of the Lokpal (Ombudsman), Electricity, Punjab decided the case in its hearing dated 11.03.2024 and remanded the appeal back to this Forum with direction to hear and decide the case on merits within the time frame as per PSERC (Forum & Ombudsman) Regulations, 2016 as amended from time to time. In compliance to these orders Forum re-admitted the case in its proceeding dated 21.03.2024 and issued notice to both parties.

Forum observed that as per CC no. 13/2015 there is no provision to charge voltage surcharge to the petitioner and as such respondent had wrongly charged the voltage surcharge during the disputed period and he had also admitted the same and had forwarded the case for the refund of the same to the Zonal Level

Refund Committee. But on the other hand it is also observed that petitioner approached the respondent regarding refund of voltage surcharge first on 09.09.2021 and then on 09.10.2021 and 11.12.2021. During proceedings petitioner was asked whether he approached the office of Respondent before 09.09.2021 for the said refund and if so, then submit the documentary evidence thereof and if not then intimate reason of not approaching the Respondent for such a long period of 5 years. In response to this petitioner submitted his reply, the relevant portion of which is reproduced as under:

*“We have given application for refund of voltage surcharge on 09.09.2021 and prior to this we visited office number of times for the refund but no any written application was submitted. We considered that it was the duty of the respondent to serve the correct bills as per tariff orders issued from time to time. Respondents should Suo-motto to take action to give refund for the wrongly charged voltage surcharge amount as and when came to their notice”.*

Forum observed that the Petitioner, being a NRS Category Consumer with sanctioned load of about 100Kw, ought to be vigilant about the tariff order(s) issued from time to time (copies of which are available in public domain on websites of PSPCL/ PSERC) and prompt in bringing to the notice of the Respondent the issue of undue voltage surcharge being levelled in his monthly energy bills. The Petitioner regularly received the energy bills issued by the respondent from time to time and in all these bills, the amount of voltage surcharge was invariably depicted. The Petitioner paid these bills regularly on receipt thereof but never pointed out any infirmity nor filed any representation to the Respondent about wrong charging of the voltage surcharge during the disputed period. Such a long delay on the part of the Petitioner of NRS category with load of 100 Kw does not seem to be exonerable.

As per Regulation no. 2.25 (c) of Punjab State Electricity Regulatory Commission (Forum and Ombudsman) (2<sup>nd</sup>

Amendment) Regulations, 2021, jurisdiction of the Forum has been defined as under: -

*2.25 The Forum may reject the grievance (other than claim for compensation) at any stage, through a speaking order, under the following circumstances:*

*c) In cases where the grievance has been submitted to the Corporate or Zonal or Circle or Divisional Forum, as per the monetary jurisdiction, two years after the date on which the cause of action has arisen or submitted to Corporate Forum after two months from the date of receipt of the orders of Zonal or Circle or Divisional Forum; and*

As per facts and details presented before the Forum, it is observed that voltage surcharge was first charged in bill dated 08.04.2016. Hence, the cause of action in this case had first arisen on 08.04.2016 but petitioner approached this Forum on 19.01.2022 after a period of about five years. Petition could have been entertained had he approached the Forum within two years from the date of cause of action. Petitioner neither made his representation within two years nor he requested for condoning the delay but rather stated that Respondents should have taken Suo-motto action and given refund for the wrongly charged voltage surcharge amount, hence, as per Regulation 2.25(c) of Punjab State Electricity Regulatory Commission (Forum and Ombudsman) (2<sup>nd</sup> Amendment) Regulations, 2021 quoted above, his request for refund of voltage surcharge cannot be accepted at this stage being time barred.”

- (ii) I have gone through the written submissions made by the Appellant in the Appeal, written reply of the Respondent as well as oral arguments of both the parties during the hearing on 24.05.2024. The Appellant’s Representative (AR) pleaded that the Corporate Forum, Ludhiana had rejected the claim of the Appellant on the ground that representation had not been made within 2 years from the date of cause of action i.e. 08.04.2016. He pleaded that it was

the duty of the Respondent to issue correct bills as per tariff orders issued from time to time. The Appellant should not be penalized for the errors of the Respondent. As there was time of COVID-19 which remained approximately for 2 years i.e from December, 2019 to September, 2021, the Appellant had submitted its 1<sup>st</sup> Application dated 09.09.2021 and gave number of reminders thereafter. Also, the Hon'ble Supreme Court of India had directed in Miscellaneous Application No. 21 of 2022 in Miscellaneous Application No. 665 of 2021 in suo motu Writ Petition (C) No. 3 of 2020 that period from 15.03.2020 till 28.02.2022 shall stand excluded for the purpose of limitation as may be prescribed under any general or special laws in respect of all judicial or quasi judicial proceedings. But Corporate Forum without considering the orders of the Hon'ble Supreme Court of India had rejected the application of the Appellant.

- (iii) It is observed by this Court that there is no dispute regarding the fact that Voltage Surcharge was wrongly charged to the Appellant for the period from 03/2016 onward as the Respondent had also admitted to the same. The only point of dispute is the limitation period. The Appellant requested the Respondent vide letter dated 09.09.2021 that there was no provision to charge Voltage Surcharge as per Commercial Circular No. 13/2015, but the same

was being charged to it since 03/2016 onwards and therefore the same should be refunded to it from 03/2016 till date. Considering the claim of the Appellant to be genuine, the Respondent refunded the amount from 01/2021 onwards & told the Appellant that the period from 03/2016 till 12/2020 falls under the period that had already been audited so the refund will be given by the Zonal Refund Committee. The Appellant filed a case in Corporate CGRF, Ludhiana for the refund of Voltage Surcharge levied to it during the period from 03/2016 to 12/2020. The Corporate Forum referred the case to the Zonal Refund Committee (North Zone), Jalandhar. During its hearing dated 31.10.2022, the Zonal Refund Committee, North Zone, Jalandhar deferred the case until the Committee formulated by SE/ Regulation, PSPCL, Patiala submits its decision regarding the limitation period of this case. Zonal Refund Committee, North Zone, Jalandhar did not decide the case for a long period of about 16 months and the Appellant again approached the Corporate CGRF, Ludhiana. Forum in its hearing dated 27.02.2024 referred the case back to Zonal Refund Committee, North Zone, Jalandhar with direction to decide the case within two months by taking up the matter with concerned authorities. The Appellant then filed an Appeal before this Court. This Court decided the case in its hearing dated 11.03.2024 and remanded the

Appeal back to the Corporate Forum with direction to hear and decide the case on merits within the time frame as per PSERC (Forum & Ombudsman) Regulations, 2016 as amended from time to time. In compliance of these orders, the Corporate Forum re-admitted the case. The Corporate Forum, in its decision dated 09.04.2024, rejected the claim of the Appellant considering it time barred as per Regulation no. 2.25(c) of Punjab State Electricity Regulatory Commission (Forum and Ombudsman) (2<sup>nd</sup> Amendment) Regulations, 2021.

- (iv) It is observed that the Respondent partly allowed the refund claim of the Appellant from 01/2021 onwards whereas the Appellant had applied only on 09.09.2021 and told the Appellant that balance refund claim comes under the purview of Zonal Refund Committee. The same issue is still pending with the Zonal Refund Committee, North Zone, Jalandhar. However, the Corporate Forum considered it as time barred as per Regulation 2.25(c) of Punjab State Electricity Regulatory Commission (Forum and Ombudsman) (2<sup>nd</sup> Amendment) Regulations, 2021. From the above, it is apparent that PSPCL had already admitted the claim and also partly refunded the amount from 01/2021 onwards instead of 09/2021 when the Appellant had made a claim. For the balance refund claim PSPCL



referred the matter to Zonal Refund Committee, where it is **still pending**.

- (v) It is clear that PSPCL had admitted the claim of the Appellant in the first place. Once the claim has been admitted as due and given partly, then it is felt that it cannot be considered as time barred as per Regulation 2.25(c) of Punjab State Electricity Regulatory Commission (Forum and Ombudsman) (2<sup>nd</sup> Amendment) Regulations, 2021. The Corporate Forum has erred in considering that part of the refund claim is time barred. Therefore, this Court does not agree with the decision dated 09.04.2024 of the Corporate Forum. The Appellant is eligible for refund of Voltage Surcharge from 03/2016 to 12/2020 as the refund from 01/2021 onwards has already been provided to the Appellant by the Respondent.
- (vi) In regard to Appellant's request for interest on this refund amount, this Court is of the view that since the Appellant never filed any representation to the Respondent about the wrong charging of the Voltage Surcharge during the disputed period from 03/2016 till 09.09.2021, so interest be provided from 09.09.2021 onwards only.

## **6. Decision**

As a sequel of above discussions, the order dated 09.04.2024 of the CCGRF, Ludhiana in Case No. CF-069/2024 is hereby quashed. The Respondent is directed to provide refund of Voltage Surcharge

to the Appellant from 03/2016 to 12/2020 as the refund from 01/2021 onwards has already been provided to the Appellant by the Respondent. Also interest on the refund amount from 09.09.2021 till the date of posting of refund in the electricity account of the Appellant may be provided.

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.

June 06, 2024  
S.A.S. Nagar (Mohali).

(ANJULI CHANDRA)  
Lokpal (Ombudsman)  
Electricity, Punjab.