

**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. 13/2024

Date of Registration : 13.06.2024

Date of Hearing : 28.06.2024

Date of Order : 28.06.2024

Before:

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

In the Matter of:

Sh. Balwinder Singh,
Village Bhulran,
Tehsil Amargarh
Distt. Malerkotla.

Contract Account Number: L36SP610740M (SP)

...Appellant

Versus

Addl. Superintending Engineer,
DS Division, PSPCL,
Malerkotla.

...Respondent

Present For:

Appellant: Sh. Balwinder Singh,
Appellant.

Respondent : Er. Harvinder Singh,
Addl. Superintending Engineer,
DS Division, PSPCL,
Malerkotla.

Before me for consideration is an Appeal preferred by the Appellant against the decision dated 15.03.2024 of the Corporate Consumer Grievances Redressal Forum, Ludhiana in Case No. CF-030/2024, deciding that:

“The decision dated 29.09.2022 of Circle CGRF, PSPCL, Barnala is set-aside. The bills issued to the Petitioner for the period of six month preceding the date of challenge of meter i.e. 24.05.2021 till the date of replacement of the meter i.e. 03.07.2021, are quashed. The account of the Petitioner be overhauled for the period of six month preceding the date of challenge of meter i.e. 24.05.2021 and upto date of replacement of meter i.e. 03.07.2021, on the basis of consumption recorded during the corresponding period of the succeeding year as per Regulation 21.5.2(d) of Supply Code-2014. Maximum demand for the above period be adopted as per Clause no. 16.1 of General Conditions of tariff.”

2. Registration of the Appeal

A scrutiny of the Appeal and related documents revealed that the Appeal was received in this Court on 13.06.2024 i.e. beyond the period of thirty days of receipt of the decision dated 15.03.2024 of the CCGRF, Ludhiana in Case No. CF-030/2024. The Appellant had deposited the requisite 40% of the disputed amount. Therefore, the Appeal was registered on 13.06.2024 and copy of the same was sent to the Addl. SE/ DS Division, PSPCL, Malerkotla for sending written reply/parawise comments with a copy to the office of the CCGRF,

Ludhiana under intimation to the Appellant vide letter nos. 322-24/OEP/A-13/2024 dated 13.06.2024.

3. Proceedings

With a view to adjudicate the dispute, a hearing was fixed in this Court on 28.06.2024 and intimation to this effect was sent to both the parties vide letter nos. 337-338/OEP/A-13/2024 dated 20.06.2024. As scheduled, the hearing was held in this Court on 28.06.2024 and arguments of both the parties were heard.

4. Condonation of Delay

At the start of hearing on 28.06.2024, the issue of condoning of delay in filing the Appeal beyond the stipulated period was taken up. The Appellant submitted that he did not receive any revised notice from the Respondent after implementation of the decision dated 15.03.2024 of the Corporate CGRF, Ludhiana. As such, there was delay in filing the Appeal. The Appellant requested for the condonation of delay in filing the Appeal & prayed that Appeal be heard on merits. I find that the Respondent did not object to the condoning of the delay in filing the Appeal in this Court either in its written reply or during hearing in this Court.

In this connection, I have gone through Regulation 3.18 of PSERC (Forum and Ombudsman) Regulations, 2016 which reads as under: -

“No representation to the Ombudsman shall lie unless:

(ii) The representation is made within 30 days from the date of receipt of the order of the Forum.

Provided that the Ombudsman may entertain a representation beyond 30 days on sufficient cause being shown by the complainant that he/she had reasons for not filing the representation within the aforesaid period of 30 days.”

It was observed that refusal to condone the delay in filing the Appeal would deprive the Appellant of the opportunity required to be afforded to defend the case on merits. Therefore, with a view to meet the ends of ultimate justice, the delay in filing the Appeal in this Court beyond the stipulated period was condoned and the Appellant was allowed to present the case.

5. 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 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 SP Category Connection bearing a/c no. L36SP610740M in his name under DS Division, PSPCL, Malerkotla.
- (ii) The Appellant's connection was running since 2014. But during Covid-19 lockdown, he started receiving the inflated bills from March, 2020 onwards. The Appellant approached the concerned SDO but nothing was done in this regard. Then the Appellant challenged the working of the meter and the meter was found defective. The Appellant had received an inflated bill of ₹ 1,42,760/- due to this.
- (iii) On 19.12.2022, the Appellant received a letter no. 2859 alongwith a copy of decision dated 29.09.2022 of Circle CGRF, Barnala in which it was mentioned that a refund of ₹ 34921/- had been given to the Appellant after the implementation of the said decision of Circle CGRF, Barnala. The Appellant was not satisfied with this decision of Circle CGRF, Barnala and filed

an Appeal in the Corporate Forum, Ludhiana. The Corporate Forum, Ludhiana decided the case on 15.03.2024. The Appellant did not receive any revised notice from the Respondent after the implementation of the decision dated 15.03.2024 of the Corporate Forum, Ludhiana.

- (iv) The Appellant submitted that the Circle CGRF, Barnala had given the relief for 6 months only before the date of challenging the working of the meter but the relief should have been from March, 2020 onwards as due to lockdown, the offices were closed & no requests were heard in this regard. The Corporate Forum, Ludhiana had quashed the decision of the Circle CGRF, Barnala & had ordered the Respondent to overhaul the account for the period of 6 months but the Respondent did not implement the same.
- (v) The Appellant submitted that the connection was running from 2014 onwards. He prayed that his account be overhauled from March, 2020 onwards till the replacement of the defective meter on the basis of average of any year from 2014 to 2019 & justice being given to him.

(a) Submission during hearing

During hearing on 28.06.2024, the Appellant 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 SP Category Connection bearing a/c no. L36SP610740M with sanctioned load/CD as 18.940 kW/20.00 kVA running in the name of Sh. Balwinder Singh under DS Division, PSPCL, Malerkotla. As per the Appellant's Appeal, he was getting excess bills from March, 2020 during lockdown period but his consumption was not that much. After checking the bills of the Appellant it was found that the Appellant was charged on account of demand surcharge from April, 2020 to September, 2021 as his MDI was exceeding the contract demand. The Appellant had challenged the meter by depositing ₹ 531/- vide BA16 No. 188/52750 dated 24.05.2021. After that the meter got changed vide MCO No. 155/53088 dated 03.07.2021 and the old meter of the Appellant was checked in ME Lab vide ME Challan No. 56 dated 04.08.2021. As per ME Lab report the meter was found "out of limit".
- (ii) The Appellant approached Circle CGRF. The Circle CGRF, Barnala decided that as per the records and Supply Code Regulation 21.5, the demand surcharge was not recoverable

from the Appellant from 6 months before the date of challenge of meter by the Appellant upto the date of change of meter. So as per this decision, the Appellant was refunded a sum of ₹ 34,921/- and notice was issued to the Appellant to deposit ₹ 1,07,839/-. But the Appellant was not satisfied with this decision of the Circle CGRF and approached the Corporate Forum, Ludhiana.

(iii) The Corporate Forum, Ludhiana decided the case on 15.03.2024. As per this decision of the Corporate Forum, Ludhiana, the Appellant did not get any benefit as the demand surcharge charged to the Appellant during the period of six month preceding the date of challenge of meter i.e. 24.05.2021 and upto date of replacement of meter i.e. 03.07.2021 was already refunded to the Appellant as per decision of the Circle CGRF, PSPCL, Barnala.

(c) Submission during hearing

During hearing on 28.06.2024, the Respondent reiterated the submissions made in the written reply to the Appeal and prayed for the dismissal of the Appeal.

6. Analysis and Findings

The issue requiring adjudication is the legitimacy of the decision dated 15.03.2024 of the Corporate Forum, Ludhiana to overhaul the account of the Appellant for the period of six month preceding the date of challenge of meter i.e. 24.05.2021 and upto date of replacement of meter i.e. 03.07.2021 on the basis of consumption recorded during the corresponding period of the succeeding year as per Regulation 21.5.2 (d) of Supply Code-2014, taking Maximum Demand for the above period as per Clause 16.1 of General Conditions of tariff.

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

- (i) The Corporate Forum in its order dated 15.03.2024 observed as under:-

“Forum observed that Petitioner contended that from 04/2020 onwards he was getting inflated bills of excessive amount. Petitioner was not satisfied with the working of the meter and challenged it by depositing Rs. 531/- vide BA-16 no. 188/52750 dated 24.05.2021. Meter of the petitioner was replaced vide MCO no. 155/53088 dated 07.06.2021 effected on dated 03.07.2021. Replaced meter was sent to ME lab vide ME challan no. 56dated 04.08.2021 wherein result was reported as ‘out of limit fast’. Petitioner did not agree to the bills issued upto 09/2021 amounting to Rs. 123000/- and filed his case in Circle CGRF, PSPCL, Barnala. Circle CGRF, PSPCL,

Barnala in its meeting held on dated 29.09.2022 decided as under: -

“ਫੋਰਮ ਵਲੋਂ ME ਦੀ ਰਿਪੋਰਟ ਖਪਤ ਡਾਟੇ ਨੂੰ ਵਾਚਦੇ ਹੋਏ ਫੈਸਲਾ ਕੀਤਾ ਗਿਆ ਹੈ ਕਿ ਸਪਲਾਈ ਕੋਡ ਦੀ ਧਾਰਾ 12.5 ਅਨੁਸਾਰ ਮੀਟਰ ਚੈਲੰਜ ਹੋਣ ਤੋਂ ਪਿਛਲੇ ਛੇ ਮਹੀਨੇ ਤੱਕ ਅਤੇ ਚੈਲੰਜ ਹੋਣ ਤੋਂ ਮੀਟਰ ਬਦਲੀ ਹੋਣ ਤੱਕ ਡਿਮਾਂਡ ਸਰਚਾਰਜ ਨਾ ਵਸੂਲਿਆ ਜਾਵੇ ਅਤੇ ਬਾਕੀ ਰਹਿੰਦੀ ਕੁਤਾਹੀ ਰਕਮ ਖਪਤਕਾਰ ਦੀ ਬੇਨਤੀ ਤੇ ਛੇ ਕਿਸ਼ਤਾਂ ਵਿੱਚ ਵਸੂਲ ਕੀਤੀ ਜਾਵੇ।”

Accordingly, after issuance of the bill dated 19.11.2022 amounting to Rs. 142760/-, Respondent issued notice vide Memo no. 2859 dated 19.12.2022 to deposit 107839/- after adjusting the refund amount of Rs. 34921/- as per decision of Circle CGRF, PSPCL, Barnala from bill of Rs. 142760/-. Not satisfied with the above notice of Rs. 107839/-, -Petitioner filed his case in Corporate CGRF, Ludhiana. Forum observed the consumption data submitted by the Respondent is reproduced as under:

Year	2019		2020		2021		2022		2023	
Month	KVAH	MDI	KVAH	MDI	KVAH	MDI	KVAH	MDI	KVAH	MDI
Jan			188	19.47	197	22.63	103	10.69	668	13.39
Feb			270	21.38	216	24.71	93	8.57	116	12.6
March			295	23	248	25.61	177	9.21	119	11.37
April			298	24.53	217	22.51	64	5.12	303	10.66
May			303	24.57	184	22.14	478	1.32	412	11.01
June			620	24.53	386	26.33	704	10.72	329	9.91
July			1491	27	364	1	530	13.07	236	10.01
Aug			1684	27.03	698	9.53	749	12.79	239	11.01
Sep	0		1704	23.68	864	21.94	598	9.94	234	8.14
Oct	844	16.16	1255	23.68	352	8.95	117	10.67	97	9.85
Nov	225	18.25	408	23.11	201	8	76	12.88	63	9.85
Dec	213	19.47	133	23.1	73	10.41	462	14	77	10.74
					67	10.56				
Total	1282		8649		4067		4151		2893	

As per the above consumption data, the annual consumption from 2019 to 2023 was recorded as 1282, 8649, 4067, 4151 & 2893 units respectively. It is observed that the consumption during disputed period is quite higher than his normal consumption. It is also observed that the MDI in the range of

22.51 to 27.03KVA has been recorded in the bills issued for the period from 04/2020 to 06/2021 and amount of Rs. 54543/- as demand surcharge was levied in the bills issued during this period. Such a high demand has not been recorded after the replacement of meter on 03.07.2021. The site of the Petitioner was checked on dated 27.02.2024 and LCR no. 40/510774 was prepared as per which connected load of the Petitioner was found 13.302KW against sanctioned load of 18.940KW and reading was recorded as 9396KWH/9574KVAH meaning thereby a consumption of about 309KVAH units per month. Even as per ME Lab report, the accuracy result of meter was report as 'out of limit fast'.

Forum observed that in view of the ME Lab report, the readings/MDIs recorded during 2020 and upto 06/2021 cannot be relied upon and the meter is required to be treated as defective. The Relevant regulation of Supply Code 2014 dealing with dead stop, burnt, defective meters which is as under:

Regulation 21.5.2 of Supply Code 2014 dealing with Defective (other than inaccurate)/Dead Stop/Burnt/Stolen Meters is as under: -

"The accounts of a consumer shall be overhauled/billed for the period meter remained defective/dead stop and in case of burnt/stolen meter for the period of direct supply subject to maximum period of six months as per procedure given below:

- 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”.

During the hearing dated 27.02.2024, Petitioner stated that he had received excess bills from March/2020 onwards but he has challenged his meter in 05/2021. He was asked whether he had submitted any representation regarding excess bills before 05/2021 to which he replied that he had approached concerned office after end of lockdown but does not have any copy of the request submitted at that time. Both the parties were directed to check and verify their records and if any application is found regarding challenge of meter in 2020, then the same be submitted on next hearing.

Respondent vide his memo no. 1515 dated 05.03.2024 (through email) submitted that record was checked in the office but no request was found submitted by the consumer. Further during hearing dated 12.03.2024 Petitioner submitted copy of request dated 20.04.2020 submitted in the office of Respondent but Respondent reiterated his stand that his office has not received any request from the petitioner. Forum observed that the copy of request dated 20.04.2020 submitted by the petitioner seems to be a fabricated one as it was complete lockdown during April/2020 to avoid the spread of Covid-19 and partial relaxation in lockdown was started during May/2020, when offices started functioning in a phased manner. Moreover, petitioner had already stated that he submitted his application after the end of lockdown, whereas the said application bears date of 20.04.2020 when there was a

complete lockdown. As such this application cannot be considered as genuine. Therefore, although it has been proved that the meter of the petitioner remained defective during 2020 but petitioner challenged his meter only in 05/2021 and he could not prove that he had submitted any representation to the respondent regarding his grievances in 2020, as such the account of the petitioner can be overhauled for maximum period of six months as per Reg. 21.5.2 of Supply Code-2014.

Forum have gone through the written submissions made the Petitioner in the petition, written reply of the Respondent as well as oral arguments made by the Petitioner and the Respondent along with the material brought on the record. Keeping in view the above discussion, Forum is of the opinion that the account of the Petitioner is required to be overhauled for a maximum period of six months preceding the date of challenge of his meter, but Circle CGRF, PSPCL, Barnala in its decision dated 22.09.2022 decided not to charge Demand surcharge only instead of overhauling the account including Demand Surcharge. Circle CGRF, PSPCL, Barnala had erred in passing such order and also it is not based on any regulations/instructions of the Distribution Licensee/PSERC, as such the same is liable to be quashed. The bills issued to the Petitioner for the period of six month preceding the date of challenge of meter i.e. 24.05.2021 till the date of replacement of meter i.e. 03.07.2021, are liable to be quashed. The account of the Petitioner is required to be overhauled for the period of six month preceding the date of challenge of meter i.e. 24.05.2021 till the date of replacement of meter i.e. 03.07.2021 on the basis of consumption recorded during the corresponding period of the succeeding year as per Regulation 21.5.2(d) of Supply Code-2014, as the consumption of the previous year is not reliable the meter having been remained defective. Further maximum demand for the above period is required to be

adopted as per Clause no. 16.1 of General Conditions of tariff.”

- (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 28.06.2024. It is observed by this court that the Appellant contended that during Covid-19 lockdown, he started receiving the inflated bills from March, 2020 onwards. The Appellant approached the concerned SDO but nothing was done in this regard. Then he challenged the working of the meter on 24.05.2021 by depositing fee of ₹ 531/- vide BA16 No. 188/52750. The disputed meter was replaced vide MCO No. 155/53088 dated 07.06.2021, effected on 03.07.2021. This disputed meter was checked in ME Lab vide ME Challan No. 56 dated 04.08.2021 where the meter was found “out of limit fast”. The Appellant filed his case in Circle CGRF, PSPCL, Barnala, which decided the case on 29.09.2022 as under:

“ਫੋਰਮ ਵਲੋਂ ME ਦੀ ਰਿਪੋਰਟ ਖਪਤ ਡਾਟੇ ਨੂੰ ਵਾਚਦੇ ਹੋਏ ਫੈਸਲਾ ਕੀਤਾ ਗਿਆ ਹੈ ਕਿ ਸਪਲਾਈ ਕੋਡ ਦੀ ਧਾਰਾ 12.5 ਅਨੁਸਾਰ ਮੀਟਰ ਚੈਲੰਜ ਹੋਣ ਤੋਂ ਪਿਛਲੇ ਛੇ ਮਹੀਨੇ ਤੱਕ ਅਤੇ ਚੈਲੰਜ ਹੋਣ ਤੋਂ ਮੀਟਰ ਬਦਲੀ ਹੋਣ ਤੱਕ ਡਿਮਾਂਡ ਸਰਚਾਰਜ ਨਾ ਵਸੂਲਿਆ ਜਾਵੇ ਅਤੇ ਬਾਕੀ ਰਹਿੰਦੀ ਕੁਤਾਹੀ ਰਕਮ ਖਪਤਕਾਰ ਦੀ ਬੇਨਤੀ ਤੇ ਛੇ ਕਿਸ਼ਤਾਂ ਵਿੱਚ ਵਸੂਲ ਕੀਤੀ ਜਾਵੇ।”

- (iii) As per the above decision of the Circle CGRF, PSPCL, Barnala, the Respondent gave refund of ₹ 34,921/- to the

Appellant & issued him Notice vide Memo No. 2859 dated 19.12.2022 to deposit the balance amount of ₹ 1,07,839/-. Not satisfied with the above Notice, the Appellant filed an Appeal with the Corporate Forum, Ludhiana. The CCGRF, Ludhiana decided the case on 15.03.2024 & ordered to overhaul the account of the Appellant for the period of six months preceding the date of challenge of meter i.e. 24.05.2021 and upto date of replacement of meter i.e. 03.07.2021 on the basis of consumption recorded during the corresponding period of the succeeding year as per Regulation 21.5.2 (d) of Supply Code-2014, taking Maximum Demand for the above period as per Clause 16.1 of General Conditions of tariff. Not satisfied with the decision of the CCGRF, Ludhiana, the Appellant approached this Court & prayed that relief be given to him from March, 2020 onwards.

- (iv) It is observed by this Court that the Appellant was getting inflated bills from March, 2020 onwards but challenged the working of the meter only on 24.05.2021, after a period of more than one year. This Court acknowledges that there was panic during March, 2020 due to Covid-19 Pandemic and the offices of the Respondent were closed. But, these offices started functioning in May, 2020. Regulation 21.5 of the

Supply Code-2014 allows overhauling of account of the consumer for maximum period of six months. The Respondent can overhaul the account of a consumer for maximum period of six months even if the meter of the consumer remains slow/fast/ defective for more than six months. In the present case, the Appellant challenged the working of the meter after a period of more than a year. He should have challenged the working of the meter in May, 2020 when the offices of the Respondent opened up again after closure due to Covid-19 Pandemic. This Court is of the opinion that the CCGRF, Ludhiana has already provided the relief as per Regulation 21.5 of Supply Code-2014 to the Appellant.

- (v) So far as the request of the Appellant that his account be overhauled on the basis of average of any previous year is concerned, this Court is of the opinion that the account of the Appellant cannot be overhauled as per Regulation 21.5.2 (a) to (c) of Supply Code-2014 as the previous year consumption data of the Appellant appears to be unreliable.
- (vi) In view of above, this Court agrees with the decision dated 15.03.2024 of the CCGRF, Ludhiana in Case No. CF-030/2024. However, the LPS and LPI charged to the consumer on the amount refunded to the consumer in pursuance to the

decision of the Corporate Forum, may also be refunded to the consumer.

7. Decision

As a sequel of above discussions, the order dated 15.03.2024 of the CCGRF, Ludhiana in Case No. CF-030/2024 is hereby upheld. However, the LPS and LPI charged to the consumer on the amount refunded to the consumer in pursuance to the decision of the Corporate Forum, may also be refunded to the consumer.

8. The Appeal is disposed of accordingly.

9. 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.

10. In case, the Appellant or the Respondent is not satisfied with the above decision, he 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 28, 2024
S.A.S. Nagar (Mohali)

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