

OFFICE OF THE ELECTRICITY OMBUDSMAN
(A Statutory Body of Govt. of NCT of Delhi under the Electricity Act of 2003)
B-53, Paschimi Marg, Vasant Vihar, New Delhi-110057
(Phone No: 011- 26144979)

Appeal No. 03/2022

(Against the CGRF-TPDDL's order dated 17.11.2021 in CG No. 09/2021)

IN THE MATTER OF

SHRI KULDEEP YADAV

Vs.

TATA POWER DELHI DISTRIBUTION LTD.

Present:

Appellant: Shri Kuldeep Yadav

Respondent: Shri Ajay Joshi, Sr. Manager (Legal), on behalf of the TPDDL.

Date of Hearing: 27.04.2022

Date of Order: 28.04.2022

ORDER

1. Appeal No. 03/2022 has been filed by Shri Kuldeep Yadav, R/o 1974, First Floor, Rani Bagh, Delhi -110034, against the order dated 17.11.2021 passed by the CGRF-TPDDL in CG No. 09/2021. The issue concerned in the Appellant's grievance is regarding the grant of compensation due to delay in release of electricity connection on the Second Floor of the above said premises where he is presently living.

2. The background of the case is that the Appellant had applied for new domestic electricity connections vide Notification No. 20224040523 on 06.08.2020 but the Respondent failed to issue a demand-note in time with concomitant delay in release of electricity connection. In this regard, the Appellant approached the Discom with Compensation Claim Form on 09.10.2020 in accordance with the Schedule of Guaranteed Standards of Performance,



Regulations, 2017 but the same was not replied. Then, the Appellant filed a complaint before the CGRF-TPDDL (Forum) for refund of Rs.4,740/- and compensation of Rs. 10,000/- on account of inordinate delay in service which resulted in damage and inconvenience to him.

3. During the deliberations before the CGRF, the Respondent stated that the Appellant is seeking recovery of Rs. 4,740.00 deposited against the demand-note issued on 20.09.2020 against which an electricity connection bearing C.A. No. 60026801161 had been already released in his favour on 07.10.2020.

The Respondent stated that reason for the occurrence of delay is purely attributed to *force majeure* due to Covid-19 lockdown imposed by the Government, hence, the same was not intentional. In addition, the Respondent stated that:

- i. As per DERC's letter No. F.17(174)/Engg./DERC/18-19/6190/181 dated 08.07.2020, period of 06.08.2020 (when the connection was applied) till 07.10.2020 (meter installed and connection energized) was the period of unprecedented calamity as '*force majeure*' condition, therefore, the claim of the Appellant is not tenable at all.
- ii. The DERC vide their letter cited above declared that the Standards of Performance in the DERC (Supply Code and Performance Standards) Regulations, 2017, shall remain suspended during '*force majeure*' condition till the restrictions are imposed by the Government of NCT of Delhi, for prevention and control of the Covid-19 pandemic.
- iii. To establish that there is no delay in installation of the electricity connection, the Respondent also submitted the sequence of events alongwith dates.

4. Further, the Respondent stated that while processing of the Appellant's new connection request, they found dues of two inactive connections on the ground floor of the same premises on CA No. 60009574983 and 6001677209 (theft dues). Later, Mr Gopal Krishan, who is living on the ground floor approached the Special Lok Adalat on 07.02.2021 and settled the above mentioned dues.



5. The Respondent again submitted their rejoinder on 17.07.2021 and stated that electricity connection bearing CA No. 60016903134 was sanctioned in the name of Shri Gopal Krishan at ground floor and CA No. 60009206230 in the name of Smt. Kusum Lata (mother or the Appellant) exists at First Floor of the same premises. Thus, in order to verify the same, perusal of records and site visit was required. However, to complete the process of dues verification, there was delay because of availability of limited manpower with the Respondent, owing to Covid-19 pandemic.

Moreover, for the determination of the compensation, it is clearly stated in Clause 11 (4) (v) (b) of the DERC (Supply Code and Performance Standards), Regulation, 2017, that :

"For determination of compensation, the time taken for release of connection shall not be considered on account of the following:-

- (i) If at any stage, additional time period is sought by the applicant for reasons to be recorded in writing; or*
- (ii) If the same is on account of reasons such as right of way, acquisition of land, delay in permission for road cutting etc. or occurrence of any force majeure event, over which Licensee has no control and the reasons for the delay are communicated to the applicant within the period specified for energization; or*
- (iii) If additional time is allowed by the Commission for completion of work".*

6. The Respondent further stated that the Appellant had never approached them throughout the period of alleged delay for energisation of connection, as it was well within his knowledge.

7. The CGRF's final order of 07.11.2021 held that lenient view is to be taken for non-adherence to provisions under Clause 11 (4) (a) to (c) on the part of the licensee considering the impact of Covid-19 situation and also in view of the order of DERC dated 09.09.2020 and 08.07.2020. As regards alleged mental agony and hardship faced by the Appellant (being deprived of electricity), the CGRF opined that he is living in the house since year 2002 and first floor of the house is already having electricity connection in the name of his mother since



2010 (his own admission). The Appellant new connection was for meeting electricity requirement for the second floor/top floor of the building which was added at later stage. Therefore, we do not find any valid reason to rely on the logic of alleged mental agony and hardship for being deprived of electricity on account of delay in release of applied electricity connection. Thus the compensation for delay in release of electricity connection cannot be granted with the present facts and circumstances.

8. Dissatisfied with the CGRF's order, the Appellant has filed this appeal on the grounds that:

- (a) The CGRF misinterpreted the facts in the order dated 17.11.2021 passed in CH No. 09/2021.
- (b) On the basis of Force Majeure Clause, the CGRF relieved the burden from the Respondent, which was in violation of the contract since Discom never notified any handicap due to it while serving his request under Notification No.: 2024040523.
- (c) The CGRF has not mentioned the incompetence of the Respondent's officials, who were derelict in their duties.
- (d) The CGRF, being biased, tried to convince him to not press for compensation against the Respondent.

And prayed that:

- i) Special damage of Rs.50,000/- for mental disturbances & frustration, trouble & inconvenience caused by the Respondent;
- ii) Refund of Rs.4,740/- which is payable as per DERC Regulations, 2017.

9. The appeal was admitted on merits and the date of hearing was fixed for 27.04.2022.

On 27.04.2022 both the parties were present. The Appellant when asked, repeated his grievance and reiterated that there was delay in giving the connection to him and he further placed the following facts for consideration for compensation:



- That he did not get any satisfactory reply from the officers of the Respondent when he tried to contact them on phone or from the officers who visited him for enquiry purposes.
- That despite submission of the documents including chain of property held by him, the officers of the Respondent were not able to establish that the pending dues were not of the Appellant.
- That the consumer/premise having dues against him (ground floor) is having the required connection and the electricity.
- That the situation had eased at the time of his application and as per DDMA notification partial unlocking had already started.

In response to the above contention, the Respondent again repeated the plea that the Standards of Performance in the DERC (Supply Code and Performance Standards) Regulations, 2017, was suspended by the Commission on 07.04.2020 and the 'force majeure' clause was invoked. This clause was invoked in view of the extra ordinary situation existing during the period of the Appellant's application and its processing. During that period most of the offices including theirs were closed and only essential services were being maintained. The Respondent further submitted that staff was kept only to maintain uninterrupted supply. The Respondent further contended that their staff strength was also down to minimal and despite the above situation, they were able to conduct field visit, verify the dues, raised demand-note and subsequently energise the connection. The Respondent when asked specifically whether they were deficient in providing the required service, the answer was in affirmative but to a little extent. They claimed that in the ordinary circumstances it should be considered as deficiency in service but there were extra ordinary circumstances and was covered under "force majeure" clause.

During the hearing, queries were raised and questions asked by the Advisors, Secretary and the Ombudsman to further clarify the issue. I have carefully gone through the available records, heard both the parties in details and I am of considered opinion that the Appellant is not entitled to any refund or compensation in view of the delay in release of electricity connection because of



prevalence of extra ordinary circumstances at that point in time and I intend to concur with the findings of CGRF on this count.

Yet, I tend to advise the Respondent that the officers dealing directly with public should be public-spirited and service-oriented so that these kinds of situation don't recur. The officers must give suitable replies in a very transparent manner to the consumer and that too very promptly. Had the officers replied in this manner, the situation and the consequent complaint/appeal would not have arisen. So, senior officers of the Respondent may take note of the above advice and take necessary steps to remedy the situation.

In view of the above, the appeal stands disposed off.



(P. K. Bhardwaj)
Electricity Ombudsman
28.04.2022