

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-cum-Fax No.: 011-41009285)

Appeal No. 14/2023

(Against the CGRF-TPDDL's order dated 29.12.2022 in Complaint No. 90/2022)

IN THE MATTER OF

Shri Kawal Singh

Vs.

Tata Power Delhi Distribution Limited

Present:

Appellant: Shri Kawal Singh, in person.

Respondent: Shri Ajay Joshi, Senior Manager-Legal, on behalf of BYPL

Date of Hearing: 21.06.2023

Date of Order: 22.06.2023

ORDER

1. Appeal No. 14/2023 has been filed by Shri Kawal Singh, R/o H.No. 237, Village Haiderpur, Near Jindal Store, Delhi - 110088, against the CGRF-TPDDL's order as cited above.

2. Briefly, the case involves a billing issue, in which the Appellant contested the service bill of Rs.24,480/- for the period 02.04.2011 to 19.07.2011 by the Respondent. The Appellant first approached the Consumer Disputes Redressal Forum (CDRF) in 2012 and the case was dismissed as withdrawn in 2017.

3 The background and issues involved in this case can be understood by looking at the following timeline of events:



- 28.07.2011** The Respondent issued a bill of Rs.24,480/- for the period 02.04.2011 to 19.07.2011 for the connection bearing CA No. 60008550844.
- 04.12.2009**
27.08.2011 Accuracy check of the meter was carried out on two occasions and both the time it was found within permissible limit.
- 16.08.2011** The Appellant visited the Respondent's office and made only partial payment of Rs.5,000/-.
- Year 2012** Against this bill, Appellant approached the District Consumer Disputes Redressal Forum - North East vide CC NO. 556/2012.
- 19.04.2012** An amount of Rs.11,000/- was deposited on the direction of the CDRF's Interim Order. Remaining outstanding amount of Rs.33,048.44 kept under NTA (not to be added) till dispute before the CDRF. Accordingly, a bill dated 03.05.2012 was generated.
- 25.05.2012** Connection bearing CA No. 60008550844 replaced with remarks 'ND - No Display'. An assessment was carried out for the period 30.11.2011 to 01.05.2012 in accordance with the Regulation 43 of DERC's Supply Code and after adding assessed amount, the outstanding amount reached to Rs.30,171.21.
- 20.03.2013** CA No. 60008550844 was disconnected on account of non-payment of outstanding dues and subsequently meter was removed on 06.09.2013.
- 08.12.2017** The complainant filed an application before the CDRF for withdrawal of the case and the matter was dismissed.
- 03.01.2018** Final Bill was issued for an amount of Rs.1,41,272.93 including current demand, principal arrears and LPSC. Bills were issued continuously till November, 2012.



- 16.09.2021** Respondent inspected the premises and found supply of disconnection (CA No. 60008550844) was running through another connection (CA No. 60014289841) on the second floor of same premises. As such, a case was booked under U/s 126 of Electricity Act, 2003.
- 23.11.2021** (a) Accumulated outstanding dues of Rs.1,84,418.76 (including principal amount + LPSC) of disconnected connection No. xxxx0844 transferred to the live connection No. xxxx9841 vide bill dated 23.11.2021.
- (b) Illegal charges (UUE) of Rs.41,485/- for the period 17.09.2020 to 16.09.2021 against live connection has also added in the aforesaid bill. Hence, gross bill was of Rs.2,41,360/-.
- 17.12.2021** Live connection bearing CA No. xxxx9841 was temporarily disconnected.
- 12.05.2022** The Respondent raised an outstanding dues of Rs.2,50,810/- against the connection bearing CA No.xxxx9841.

4. Then, the Appellant filed a complaint before the CGRF on 14.06.2022 for withdrawal of bill amount of Rs.24,480/- against disconnected connection bearing CA No. xxxx0844 and restoration of electricity supply.

5. The Forum in its order pointed out that a case of Unauthorized Use of Electricity (UUE) under section 126 of Electricity Act, 2003 had booked against connection bearing CA No. 60014289841 and provision of Regulation 13(2) of DERC's Gazetted Notification, 2018, bars the jurisdiction of the Forum to entertain the consumer grievance falling under this section.

Since the complainant had approached the Forum for restoration of electric supply of CA No. xxxx0844 and other reliefs related to this connection, therefore, CGRF adjudicated the issues related to it only. Further, the Forum directed the Respondent to levy LPSC on CA No. xxxx0844 upto 06.09.2013 only. Since, the connection was permanently disconnected on 06.09.2013 and meter was also removed. Therefore, complainant has to apply for new connection and complete all commercial formalities as per the Regulations.



6. The Respondent, on the basis of the CGRF's order dated 29.12.2022, issued a bill of Rs.1,33,270/-, which is payable by the Appellant-. The record however indicates that only an amount of Rs.66,977/- is due against the disconnected connection (CA No. xxxx0844) and the remaining amount pertains to the other connection (CA No. xxx9841) on account of UUE charges, current demand and LPSC.

7. Aggrieved from the above order, the Appellant filed this appeal stating that the Forum has not considered the following points with respect to connection bearing CA No. 60008550844 and requested to consider the same:

- (i) To waive off complete LPSC
- (ii) To remove additional/assessment charges of Rs. 26,973.58
- (iii) To adjust an amount of Rs.11,000/- deposited on 19.04.2012, on the direction of CDRF's Interim Order.
- (iv) To adjust security amount and interest thereon against the outstanding dues.

8. The appeal was admitted and taken up for the hearing on 21.06.2023. During the hearing, the Appellant was present, in person, and Respondent was present through its authorized representative/Counsel. An opportunity was given to both parties to plead their case at length.

9. During the hearing, the Appellant submitted the contents as mentioned at S.No. 3 Supra. On being asked, when he had received regular bills, why payments had not been made (for disconnected electricity connection No. xxxx0844) till March, 2013, the Appellant admitted he had received regular bills but could not pay the same as he had been making efforts for its rectification. When he did not get any satisfactory relief from the Respondent despite repeated visits, he approached the CDRF and subsequently withdrew the complaint from CDRF in 2017 and filed his complaint afresh before the CGRF. The Appellant also submitted that he did not receive any bill after January, 2018. Thus, the dues were not conveyed to the Appellant at any time as pending after January, 2018.

10. In rebuttal, the Respondent reiterated their contention as submitted in their written submission. Their seriatim reply to the appeal is as under:



- (a) As per CGRF's order LPSC levied upto 06.09.2013 only.
- (b) With regard to assessment amount of Rs. 26,973.58, it is submitted that the meter of the subject connection was replaced on 25.05.2012 with 'No Display' remarks and last OK reading was recorded on 30.11.2011. Accordingly, an assessment for the period 30.11.2011 to 01.05.2012 on the basis of average consumption from 27.10.2010 to 29.11.2011 was carried out for an amount of Rs.26,973.58 for 5001 units in accordance with the Regulation 43 of DERC's Supply Code, 2007. Hence the amount is payable by the Appellant.
- (c) Regarding adjustment of Rs.11,000/-, the Respondent submitted that this amount was duly adjusted against the outstanding bill dated 09.12.2011 of Rs.43,339.88 on 19.04.2012 and remaining amount of Rs. 33,048.44 was kept under NTA/Disputed Amount. The same was duly reflected in Bill dated 09.06.2012.
- (d) Regarding adjustments of security amount and interest thereon - the security amount of Rs.1,875/- adjusted in the account and interest thereon of Rs.562/- was adjusted in the Bill No. 10007144071 dated 03.01.2018.

11. However, no steps were taken by the Respondent to remove the meter and install one other meter for studying defective readings or corrective action based on average consumption during corresponding previous periods as envisaged in Regulation 43 of the DERC (Supply Code and Performance Standards) Regulations, 2007. There was a total failure by the Discom to redress the grievance at the relevant time, i.e. in the year 2011. This resulted in harassment and mental agony to the Appellant and blatant violation of his rights, besides deficiency of services for twelve long years. The issue could have been addressed and sorted out in the year 2011/12.

12. This Court has considered the matter in the light of the express provisions of Section 56(2) of the Electricity Act, 2003 and observes that the amount "first" becomes due in 2013, and after withdrawal of complaint from CDRF, it was reflected in the bill of January, 2018. After that neither there is any evidence or bill to prove that the amount was continuously reflected during the period from 2018 to 2021. Further, an opportunity was given to the representative of the Respondent to make his submission against applicability of Section 56(2) of the Electricity Act, 2003 in the case, however, he could not produce any convincing documents or arguments.



13. The matter has been considered in its entirety. It is apparent from the records that the connection bearing CA No. xxxx0844 was disconnected on 20.03.2013 on account of outstanding dues and meter was removed on 06.09.2013. Thereafter final bill for Rs.1,41,273.93 on 03.01.2018 for the disconnected connection (CA No. xxxx0844), was issued and accumulated outstanding dues were transferred to the live connection (CA No. xxxx9841) on 23.11.2021, i.e. after more than three and half years. Section 56(2) of the Electricity Act, 2003 imposes a limitation period of two years for recovery of the outstanding amount from the date, when it became first due. The law In this regard has been examined in detail by the Supreme Court in its decision dated 05.10.2021 in the matter M/s Prem Cottex Vs Uttar Haryana Bijli Vitran Nigam Ltd., when the Court in para 15 held that section 56 (2) not only merely bars the remedy to recovery but also the remedy of disconnection. Neither the CGRF (Forum) nor the Respondent (Discom) have examined the matter from this perspective. The liability of the Appellant to pay for actual consumption of electricity/unauthorised use of electricity from the connection (CA No. xxxx9841) during the relevant period would remain. The aspect of action for unauthorised use of electricity, is a matter, which does not fall within the domain of this Court.


14. On the basis of the above discussion, this Court is of the view that injustice has been done to the Appellant because of gross apathy and negligence on the part of officials of Discom and, accordingly, directs as under:

- (i) The order passed by the CGRF is set-aside. The case attracts Section 56(2) of the Electricity Act, 2003 and therefore any claim towards pending dues in respect of connection bearing CA No. 60008550844 are barred by limitation. The Respondent can only claim payment in respect of dues pending for other temporary disconnected connection (CA No. 60014289841), which is booked for unauthorized use, excluding any other claim pertaining to CA No. 60008550844.
- (ii) The case reveals total absence of any robust mechanism for recovery of pending dues from consumers. The efficient system, protecting interest of consumer as well as the DISCOM necessitates regular monitoring of pending dues on a quarterly basis by a team of officers, besides institution of action including civil suit for recovery of the amount due, periodic notices etc. for protecting their own revenue interests.



- (iii) The Discom is expected to act in a manner friendly to the consumers. Matters of faulty billing cannot be allowed to linger on for years together or an indefinite period, causing harassment to the consumers. There is a need of strict compliance with the procedures laid down as envisaged in Regulation 43 of the Supply Code, 2007 and the present Regulations of 2017. A duty is cast upon a CEO, to pay special attention to such pending matters.
- (iv) It is open to the Appellant to apply for a fresh connection, upon completion of all commercial formalities, as also observed by the CGRF.
- (vii) Action taken report may be submitted within the four weeks on receipt of this order.

The appeal is disposed off accordingly.


(P.K. Bhardwaj)
Electricity Ombudsman
22.06.2023