

o/c

Office of Electricity Ombudsman

(A Statutory Body of Govt. of NCT of Delhi under the Electricity Act, 2003)

B-53, Paschimi Marg, Vasant Vihar, New Delhi – 110 057

(Phone No.: 32506011, Fax No.26141205)

Appeal No. F. ELECT/Ombudsman/2008/267

Appeal against Order dated 12.12.2007 passed by CGRF-BRPL in case No. CG/294/2007.

In the matter of:

Shri G.S. Kohli

- Appellants

Versus

M/s BSES Rajdhani Power Ltd.

- Respondent

Present:-

Appellant Shri G.S. Kohli Appellant attended alongwith
Shri V.K. Goel, Advocate

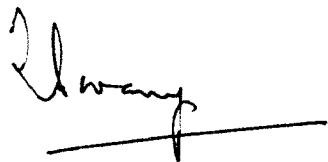
Respondent Shri Akash Supakar, DGM (KCC) and
Shri Srajan Bhargava, Assistant Manager (KCC)
attended on behalf of BRPL

Dates of Hearing : 18.06.2008, 27.06.2008

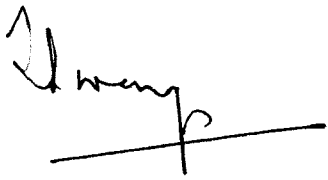
Date of Order : 30.06.2008

ORDER NO. OMBUDSMAN/2008/267

1. The Appellant, Shri G.S. Kohli, r/o BF-32, IInd floor, Tagore Garden, New Delhi – 110027 has filed this appeal against the orders of the CGRF-BRPL dated 12.12.2007 in case no. CG/294/2007. The Appellant has filed this appeal on the following grounds:-



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- i) That the Ld. CGR Forum has not applied its judicial mind to the facts and circumstances of the case in the right perspective.
 - ii) That the Ld. CGRF has not appreciated the legal proposition on the subject at all.
 - iii) That it has to be appreciated that the Respondent on his own had raised the demand of Rs.11,27,383/- for the 2 year period and the Ld. CGRF had no jurisdiction to increase the same. The Ld. CGRF has thus exceeded its jurisdiction in directing to increase the demand.
 - iv) That Ld. CGRF is not acting in the capacity of supervisory body and has thus no authority to increase the demand.
 - v) That Ld. CGRF can at the most dismiss the complaint of the Appellant and in that case the result would be that the demand as originally raised would remain.
 - vi) That claiming the demand for even two years is wrong as no cogent evidence was provided by the respondent to show that wrong billing was going on or that the multiplying factor was indeed '40' and not '10'.
 - vii) That claiming of any demand for consumption for a period earlier than two years is specifically barred by Section 56(2) of the Electricity Act, 2003.

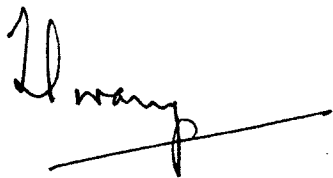


viii) That though the question of counting the period of 2 years as per Section 56(2) of the Electricity Act, 2003, is not yet fully settled and binding, in this case the demand was being continuously raised and it was only that wrong billing was going on, presuming that the multiplying factor was wrongly applied.

ix) That it is one matter if the bills are not being raised at all and it is a different matter if the bills are raised erroneously. Presuming the law laid down by the Hon'ble Appellate Tribunal to be correct and binding, even then, the limitation of 2 years will be counted from the date of raising the erroneous bill and not from the date of raising the correct bill. The bills now corrected can again be found to be incorrect and, there is no surety that there is no error in these. This way the limitation can never be applied. This can never be the intention of the legislature.

2. The background of the case as per records and submissions made by both parties is as under:-

- a) The Appellant is the user of the electric connection bearing K. No. PB8111433212 / 2231 installed at RZ-31, Ground Floor, Narsingh Garden, New Delhi, in the name of Rajinder Engineering Works with a sanctioned load of 50.98 kw for Industrial purpose.
- b) All the electricity bills received by the Appellant were paid upto August 2007. In the September 2007 bill, suddenly



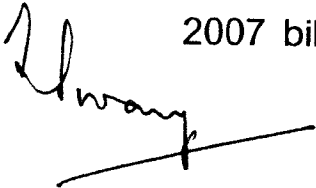
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arrears of Rs.11,27,383.60 were added. Later on it was informed by the Respondent that the multiplying factor (MF) of the meter installed on 28.06.2004 was 40, but by mistake the billing had been done with the MF 10. The Respondent had included in the arrears, the difference between the units charged earlier for the past two years and units actually consumed by the Appellant. The arrears on this account were added in the September 2007 bill, disputed by the Appellant.

- c) Against the arrears claimed, the Appellant filed a complaint before the CGRF and the matter was heard on 07.12.2007.

The Appellant stated before the CGRF that on numerous occasions he visited the NDPL office to ascertain the details of arrears in the bill, and later on he was informed that charges for energy consumed are to be recovered for a period of two years on the basis of the correct MF. The Appellant's contention is that the assessment on the basis of the correct MF can be done only for a period of six months and he has requested for rectification of his bill, without LPSC.

- d) The Respondent stated before the CGRF that meter no. 29003288 was installed against the above connection on 28.06.2004 with the MF 40/1. However, billing against this connection was done erroneously by applying the MF of 10/1. The Respondent produced copies of the site inspection reports dated 25.04.2006 and 19.09.2007. In the September 2007 bill, the difference between the billed units and those



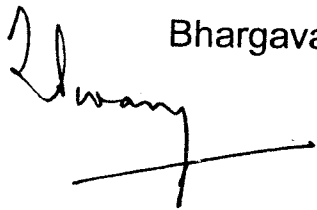
chargeable on account of correct MF, was shown as arrears, as 235857 additional units had been consumed in the last two years.

- e) The CGRF in its order observed that it is difficult to believe that the Appellant who had an electric connection with a sanctioned load of 50.98 KW, could not detect the mistake on receipt of bills with an abnormally low consumption, from a specific date. The CGRF in its order therefore directed that the bill of the Appellant may be revised w.e.f. 28.06.2004 i.e. (when the meter was installed) and billing started with the wrong multiplying factor of 10/1, against the actual multiplying factor of 40/1. Thus the CGRF enhanced the period for which arrears were to be charged i.e. from August 2005 to September 2007, to 28.06.2004 to September 2007.

Not satisfied with the orders of the CGRF, the Appellant has filed this appeal.

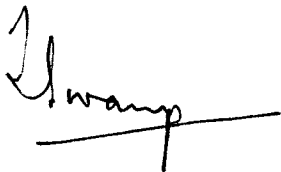
3. After scrutiny of the appeal and records and after obtaining required clarifications from the Respondent, the case was fixed for hearing on 18.06.2008.

On 18.06.2008, the Appellant was present in person alongwith Sh. V.K. Goel, Advocate. The Respondent was present through Sh. Akash Supakar, DGM (KCC) and Sh. Srajan Bhargava, Asstt. Manager (KCC).



Both parties were heard. The Appellant reiterated the submissions already made in writing. The main grievance of the Appellant is that the CGRF has no jurisdiction to enhance the period for which arrears are claimed on the basis of the correct MF. The Respondent has already claimed arrears for two years i.e. for the period August 2005 to September 2007, amounting to Rs.11,27,383.60. The Appellant stated that he had filed the complaint before the CGRF against this bill. Instead of giving any relief, the CGRF on its own increased the period for which arrears are to be charged from August 2005 onwards to 28.06.2004 onwards.

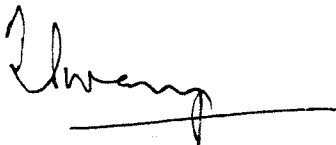
It is the Appellant's plea that the CGRF has no jurisdiction to increase the period for which arrears are claimed and it cannot act in the capacity of a supervisory body of the Respondent. At the most, the CGRF could have dismissed his complaint. The Appellant has stated that, he is also not satisfied with the arrears claimed for the past two years on account of application of the wrong multiplying factor, as the consumption pattern does not show any abnormal drop due to the multiplying factor of 10/1 instead of 40/1. The consumption pattern record shows some drop in consumption, but does not indicate that the consumption through the new meter installed on 28.06.2004 was only 25% of the consumption prior to the change of meter. To settle the issue, the



Appellant however stated that he is willing to pay the arrear bill already raised by the Respondent for Rs.11,27,383.60.

5. The copy of the Meter Change Report produced by Respondent taken on record, clearly indicates that the multiplying factor recorded on the Report was 40/1. The Respondent was asked as to how the multiplying factor 10/1 was fed into their system for billing purposes. The Respondent was also asked to give names of the employees who punched the wrong multiplying factor, and as to why no corrective action was taken after the initial inspection report of April 2006. The Respondent was also asked to give information regarding their policy in such cases as after corrective action they were raising arrear claim for two years only, when the incorrect MF was applied w.e.f. 28.06.2004 onwards. The case was fixed for further hearing on 27.06.2008
6. On 27.06.2008, the Appellant was present in person along with his Advocate Sh. V.K. Goel. The Respondent was present through Sh. Akash Supakar, DGM (KCC) and Sh. Srajan Bhargava, Asstt. Manager (KCC).

The reply of the Respondent dated 25.06.2008 was taken on record. As per the reply, the meter was replaced by an outside Agency (Group IV Facility Services Pvt. Ltd.) who also punched the wrong data in the billing system. There is a clear lack of supervision of the Respondent on the working of the Agency to



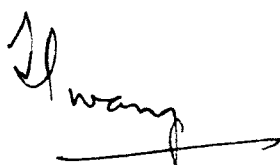
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whom the work is outsourced, causing monetary loss to the Respondent company and unnecessary harassment to the Appellant. The Respondent further stated that there is no policy to limit the recovery of arrears only the two years. However, the Respondent informed that in this case the arrear bill for only the past two years was raised, keeping in view the provisions of section 56 (2) of the Electricity Act 2003.

7. After taking into consideration the submissions made by both the parties, **it is decided that the Appellant is liable to pay the arrear bill of Rs.11,27,383.60 as raised by the Respondent as this is a case of escaped billing due to wrong application of the multiplying factor. The Respondent should also enquire into this case and take suitable disciplinary or other action against the Agency and persons responsible for the erroneous billing.**

The CGRF order is modified to the extent above.

30th June 2008


(SUMAN SWARUP)
OMBUDSMAN