

(88)

## **OFFICE OF THE 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/2010/344**

Appeal against Order dated 11.08.2009 passed by CGRF-BRPL in the case CG No. 132/2009.

#### **In the matter of:**

Shri Prakash Khattar - Appellant

#### **Versus**

M/s BSES Rajdhani Power Ltd. - Respondent

#### **Present:-**

**Appellant** Appellant Shri Prakash Khattar was present in person alongwith Smt. Khattar

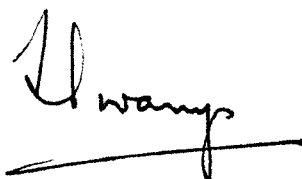
**Respondent** Shri A.P.Ram, DGM (B) and Shri Shriram Tripathi, Commercial Officer attended on behalf of BRPL

**Date of Hearing** : 02.12.2009, 09.12.2009, 16.03.2010, 16.04.2010 and 28.04.2010

**Date of Order** : 04.05.2010

### **ORDER NO. OMBUDSMAN/2010/344**

1.0 The Appellant Shri Prakash Khattar, has filed this appeal against the orders dated 11.08.2009 passed by the CGRF-BRPL stating that the said order has been passed on the basis of discrepancies and deficiencies pointed out by the BRPL's officials and the facts still have not come up. The Appellant has also stated that the



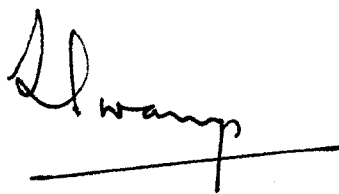
4. 05. 2010

87

application and fee for meter testing was deposited by him on 24.01.2009, but, testing was done only on 14.05.2009 with the intervention of the Hon'ble Chief Minister's office. The Appellant has prayed for justice on facts and not based on assumptions and presumptions.

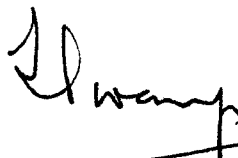
2.0 The brief facts of the case as per the appeal, the records and the submissions of the parties are as under:

- i) The Appellant requested for testing of his meter No. 27073243 on 24.01.2009 and deposited the required meter testing fee. The meter was however tested only on 14.05.2009. It was recorded in the meter test report that meter no. 27055247 is recorded on the bill, but the actual meter no. 27073243 is existing at site. The meter at site, No. 27073243, was tested and was found to be within the permissible limits of accuracy.
- ii) The Appellant filed a complaint before the CGRF stating that after seeing the meter test report dated 14.05.2009 he was shocked to learn that he has been receiving bills for some other meter, whereas the actual meter at site was different. The Appellant stated before the CGRF that instead of rectifying the problem, the Respondent has literally frightened his family in the peak scorching heat of summer for payment of wrong bills under threat of disconnection.

  
4.05.2010

- iii) The DGM (Div.) Saket, Shri A. P. Ram stated before the CGRF that it is a case of inadvertent mis-match of meter number existing at site with the meter punched in their records. After the site verification, necessary corrections had been done and the correct meter number 27073243 had been punched in the system for billing purposes, which actually existed at site. It has also been confirmed through the CMRI downloaded readings that the earlier bills were sent as per readings of the actual meter existing at site viz No. 27073243. The bills issued earlier were based on actual readings and there was no discrepancy in the readings of the meter at site, although the incorrect meter No. was shown on the bills.
- iv) The Respondent's officials further stated before the CGRF that the earlier meter no. 27055247 which was available in July 2004, continued to appear in the bills even after this meter was replaced on the basis of a defective meter report dated 29.10.2005. The meter no. 27073243 was installed on 29.10.2005, but, this meter no. was not punched in the system for billing purposes. The consumption record indicates that the readings of the new meter No.27073243 as 951 was recorded on 17.11.2005 and regular incremental readings were recorded thereafter till date.

- 2.1 The CGRF observed that since the exact date of meter change is not available, it can be presumed that the defective meter was changed on 29.10.2005 i.e. the date of meter testing at reading

  
4.05.2010

35

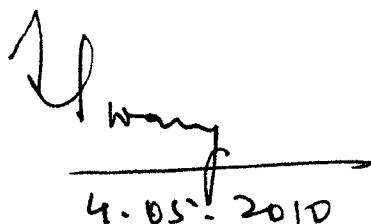
46999 of meter no. 27055247. It was presumed that this meter was installed in July, 2004 with the initial reading '01' and the meter defective period was taken to be from July, 2004 to 29.10.2005, as during this period abnormal readings were observed by the CGRF, in excess of the consumption pattern for the last two years.

The CGRF ordered that the assessment for the defective meter No. 27055247 be done by taking the average consumption during the period w.e.f. 05.07.2003 to 28.05.2004 as the base. The assessment for the defective meter was also restricted to six months. For the harassment caused to the consumer, the CGRF allowed a compensation of Rs.5,000/-, to be adjusted in the subsequent bills.

Not satisfied with the order of the CGRF. The Appellant has filed this appeal.

- 3.0 After scrutiny of the appeal, the records of the CGRF and the reply/comments submitted by the Respondent, the case was fixed for hearing on 02.12.2009.

On 02.12.2009, the Appellant, Shri Prakash Khattar, was present, in person. The Respondent was not present. It was telephonically informed that no one from the Respondent could appear due to late receipt of the notice and a request for a fresh date was made.

  
4.05.2010

The Appellant stated that the meter was actually changed in April, 2009 and no meter change report was got signed by him. Bills for October'05 and November'05 were produced as also receipt for Rs.70,268/- dated 17.03.2009 when the bill for March 2009 was for Rs.49,200/-. The Appellant stated that excess payment was taken under threat. The meter was also tested five months after the application was submitted and testing fee was deposited.

- 3.1 After hearing the Appellant, it was decided that notice be issued to the Respondent to appear alongwith downloaded readings of the old and new meters, the meter change report and reason for delay in testing the meter. The case was fixed for hearing on 09.12.2009.

On 09.12.2009, Shri Prakash Khattar, was present, in person. The Respondent was present through Shri A.P. Ram, DGM (Business) and Shri Shriram Tripathi, Commercial Officer.

Both the parties argued their case and presented documents to support their contentions. The Respondent officials stated that as per their record the earlier meter no. 27055247 available in 2004 was declared faulty on 29.10.2005. The relief on account of faulty meter had also been given to the consumer in 2005 itself. The Respondent officials also stated that the Appellant had not

*Shwamy*  
4.05.2010

made payment of current dues after January 2009. The Appellant stated that he is willing to pay the current dues after January 2009 and immediately he can pay Rs.20,000/-.


After hearing the parties, it was decided that:

- a) A check meter be installed for 15 days at the premises of the Appellant immediately to confirm the accuracy of the meter existing at the site.
- b) Downloaded readings of the meter at site be sent before the next hearing.
- c) The statement of payments made by the consumer from May 2004 onwards be produced.
- d) The consumer should make payment of Rs.20,000/- immediately towards current dues, as part payment.

The case was fixed for further hearing on 12.01.2010.

3.2 The Appellant did not attend the hearings on 12.01.2010 and 28.01.2010 and sought adjournments telephonically. He also did not deposit the part payment of Rs.20,000/- with the Respondent as is evident from the Respondent's letter dated 08.03.2010. It was decided to give him the last opportunity to either appear in person or through an authorized representative on 16.03.2010.

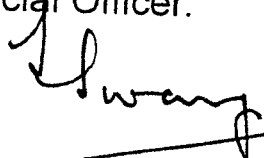
3.3 On 16.03.2010, the Appellant was present through Shri Arvind Kumar Yadav. The Respondent was present through Shri Shriram

  
4.05.2010

Tripathi, Commercial Officer. Medical reports of the Appellant were produced showing a serious illness. A cheque for Rs.20,000/- was also handed over by the Appellant's representative to the Respondent as part payment of current dues. The Respondent officials stated that the earlier two cheques submitted in January and March 2009 by the Appellant had bounced and the system will not accept the present cheque. However, as a special case the cheque for Rs.20,000/- was accepted by the Respondent. It was directed that in case this also bounced, the Respondent was free to proceed as per the law. The case was fixed for further hearing on 15.04.2010.

3.4 The Appellant made a request for further adjournments as per written requests received through Shri Arvind Kumar Yadav. The Respondent stated that the Appellant has not been paying the current dues even after filing the appeal, and dues amounting to Rs.23,432/- for December, 2009 to 03.04.2010 had accumulated. The Appellant's representative was asked to ensure payment of the current dues within five days as these dues are not the subject of any dispute. The case was adjourned to 28.04.2010 on the request of the Appellant.

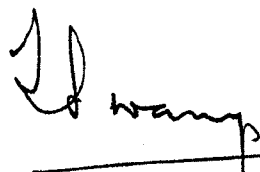
3.5 On 28.04.2010, the Appellant Shri Prakash Khattar was present, in person along with his wife. The Respondent was present through Shri A.P. Ram, DGM (Business) and Shri Shriram Tripathi, Commercial Officer.

  
7.05.2010

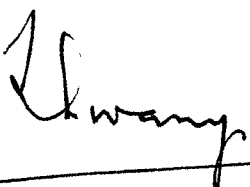
(87)

Both the parties argued their case at length. The Respondent filed the meter accuracy report on the basis of consumption recorded by the check meter and meter no.27073243 for a period of 4 months. The consumer's meter was found to be within the permissible limit of accuracy. The Respondent also confirmed that the meter at site was not defective and was correctly recording readings since its installation in October/November, 2005. The downloaded readings of this meter no. 27073243 and a statement showing the consumption and payment details was also filed by the Respondent and was taken on record.

The Respondent however agreed that two errors had occurred. Firstly the correct meter number was not punched in the system in October/November 2005 though the downloaded readings tallied with the readings of the meter at the site. Secondly, when the recovery of Rs.70,268.- was made in March'09, the installment not yet due, was also included in the dues, resulting in a difference between the bill amount and the amount for which recovery was made. The Appellant confirmed that the cheque payment taken under threat by the Respondent was stopped by him through the bank. It was also confirmed that the current dues had not been paid.

  
4.05.2010

- 80
- 4.0 It is observed that the Appellant has not been paying the dues regularly and has tried to take advantage of the errors of the Respondent. The meter No. 27055247 was changed in October/November, 2005, being defective and his dues till this date had been settled. However, the Appellant failed to disclose this fact. The Respondent officials stated that dues as on 03.04.2010 amount to Rs.1,17,908/- including arrears, and after deleting the LPSC amount of Rs.10,145.70 as a special case were payable. This amount is not disputed by the Appellant. The Appellant requested for payment of the above said dues in three installments which was agreed to. It was decided that a revised bill be raised by 03.05.2010 given complete details of arrears and current dues and the date for payment of the three installments allowed, be indicated clearly. In case of non-payment by the Appellant of any of the installments, action as per law can be taken by the Respondent.
- 4.1 The Appellant has claimed compensation for delay in testing of his meter. As per Section 5 of the Schedule III of the Standards of Performance and Compensation to consumers, the defective meter was required to be tested within 15 days of receipt of the complaint/application. In this case, the Appellant had applied on 24.01.2009 for testing the meter which was actually tested on 14.05.2009. The prescribed compensation amount @ 25/- for each day's default, comes to Rs.2,375/- (95 days X 25) whereas the CGRF has already allowed a compensation of Rs.5,000/-. The

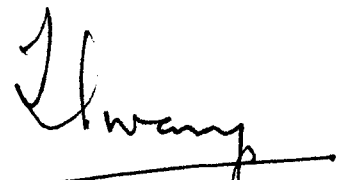
  
4.05.2010

Appellant has also been given a relief of the LPSC amount of Rs.10,145/-, although regular payments of current dues were not made by him. It is, therefore, felt that no further compensation is called for.

The order of the CGRF-BRPL is modified to the extent stated in para 4.0 above.

**Compliance of this order may be made within 21 days of this order.**

415 May 2010

  
(SUMAN SWARUP)  
OMBUDSMAN