

OFFICE OF ELECTRICITY OMBUDSMAN

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

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Appeal No. 52/2023

(Against the CGRF-BRPL's order dated 25.09.2023 in C.G. No. 78/2023)

IN THE MATTER OF

Smt. Saroj

Vs.

BSES Rajdhani Power Limited

Present:

Appellant: Smt. Saroj along with her brother Shri Sanjeet Kumar

Respondent: Shri S Bhattacharjee, Sr. Manager, Ms. Meena Kumari, Business Manager, Shri Manish Bhardwaj, Commercial Office and Shri Arav Kapoor, Advocate, on behalf of BRPL

Date of Hearing: 06.03.2024

Date of Order: 27.03.2024

ORDER

1. Appeal No. 52/2023 has been filed by Ms. Saroj, R/o Plot No. 46, Khasra No. 35/7, First Floor, Shri Chand Park, RD-Block, Dharampura Extension, Old Kakrola Road, Najafgarh, Delhi – 110 043, against the CGRF-BRPL's order dated 25.09.2023 passed in C.G. No. 78/2023.

2 The instant case is that the Appellant received a bill of Rs.52,090/- in the month of March, 2023, for the period 26.01.2021 to 24.12.2022, against the domestic electricity connection bearing C.A. No. 151997848 at the above-cited address. The Appellant's meter stopped downloading readings w.e.f. March, 2021, due to some technical problems and she paid around Rs.7,000/- to Rs. 8,000/- between April, 2021 September, 2021. The Appellant had received a '0' (zero) amount bill from November, 2021 to November, 2022. The meter was replaced on 24.12.2022. Thereafter, she has not received any bills from December, 2022 to February, 2023. In this regard, the

Appellant sent an email to the Discom for rectification of the bill on 21.04.2023. The Discom replied to the Appellant vide its emails dated 4.7.2023 and 25.07.2023, duly mentioning therein that the total amount of the bill was Rs.86,710/- and, on her request, it was duly revised to Rs. 52,090/- after adjustment of slab benefits on 07.03.2023. The Appellant's main plea is that she is using the first floor as a 'store room' and hardly using electricity, therefore, there was very low consumption. The Appellant also expressed that she has to manage their expenses with limited resources. Further, she had received the bills without such abnormal readings from the year 2016 till 2021, and suddenly received a huge bill without any details/ bifurcation after 25 months, i.e., in March, 2023. Not satisfied with Discom's reply, the Appellant filed a complaint before the CGRF on 24.07.2023 with a request for the cancellation of this demand and the issue of a new bill on an actual basis.

3. Whereas, the Discom submitted before the Forum that there was a technical problem in down-loading the readings due to a port problem in the meter installed against the said connection since January, 2021. The last reading was downloaded on 25.01.2021 for 8560 units, and after changing the faulty port of the meter, the reading was downloaded on 24.12.2022 for 17866 units. Therefore, between 26.01.2021 to 24.12.2022, all the bills were served on a provisional basis to the tune of 'Zero' amounts. During this period, the Appellant had neither approached Discom nor lodged any complaint on any platform about the same. The Discom further submitted that they even proposed the Appellant for meter testing, but the same had been declined by her.

4. The Discom again submitted the following additional facts for consideration before passing the final order:

- (a) Afresh calculation sheet for the consumption of electricity connection (CA No. 151997848) for the period 25.01.2021 to 24.12.2022 along with month-wise break-up which comes to Rs.57,960/- including current demand of Rs.2,005/- and LPSC of Rs.3,865.43.
- (b) It has come to their knowledge that some parts of the premises have been constructed/renovated and they have submitted photographs of the premises. At the premises, there are two meters installed bearing CA No. 151997848, against which the complaint was registered, and another bearing CA No. 150864167.
- (c) After lodging the complaint, it has been observed that consumption against the connection bearing CA No. xxxx7848, in question, started showing lower consumption and increasing against CA No. xxxx4167, particularly in

the recent two months, which shows that the complainant has not been consuming energy against the first meter, for which the complaint has been registered. The Discom also placed the consumption patterns of both connections.

5. The Appellant also filed a rejoinder before the CGRF vide her email dated 14.09.2023 and stated that (a) things are being distorted and complete true facts are not mentioned (b) it was not appropriate to take photos without intimation, and such behaviour has caused mental harassment to her.

6. After detailed observations, the CGRF-BRPL opined that the raising of the energy bill for the period 26.01.2021 to 24.12.2022 after allowing slab benefit and credit of the amount already paid by the complainant, working out as Rs.52,090/-, was correct and payable by her. However, issuing the bill in one go with a demand to pay the same by 22.03.2023 was not proper. Therefore, the Forum directed the Discom as follows:

- A. To allow the complainant to pay the amount of Rs.52,090/- in six equated installments without levy of LPSC till this total amount gets cleared.
- B. To waive off the LPSC charges for subsequent bills raised by the Discom (from March, 2023 till September, 2023), since the complainant had approached this Forum on 24.07.2023 and the matter was pending for adjudication. The complainant is directed to clear the principal amount of electricity bills for these months in one go (i.e., a single payment but without LPSC component payments) within the next 15 days' time from the date of this order. However, thereafter, the levy of LPSC charges would be applicable as per norms/prevaling practices.
- C. Till the clearance of the total amount of Rs.52,090/- in the number of installments, no action will be initiated by the Respondent for issuing notice under Section 56(1) of the Electricity Act, 2003 for disconnection of supply against CA No. 151997848.
- D. The Respondent was further directed to submit an action taken report after finalizing the schedule of six installments of an outstanding amount of Rs.52,090/-, clearly indicating the date of the first and last installments, to the Forum within 15 days.

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7. Not satisfied with the order dated 25.09.2023 passed by the CGRF, the Appellant filed this appeal on the following grounds:

- (a) That there is a lack of authentic information regarding how many units were consumed in which month in the last 25 months.
- (b) That the Appellant never refused meter testing as well as load assessment. In fact, during the hearing, the Discom was asked to accept half of the bill amount for meter testing.
- (c) That no construction or renovation has been done as claimed by the Discom.
- (d) That there are many reasons for the high and low bill patterns on the ground floor, viz; change in the number of family members, medical issues, pandemic due to COVID-19, etc.

And the Appellant requested to waive off the disputed bill of Rs.52,090/- and compensation for mental harassment.

8. The Discom, in its reply dated 29.01.2024 to the appeal, reiterated its submission as before the CGRF. In addition, the Discom submitted that after amending the bill, the actual reading was calculated for 9306 units for approx. 23 months, for which the bill of Rs.52,090/- was due on 22.03.2023. The current outstanding amount till 21.08.2023 was of Rs.57,960/-, which was due on 09.09.2023 (inclusive of outstanding dues of Rs.52,090/-) Further, 07.03.2023 onwards regular bills have been raised on the electricity connection in question, but no payment has been made by the Appellant till date. The Discom also submitted that the Appellant was explained how the bill was calculated, but she was reluctant to accept the same. The Appellant was asked even to get her meter tested to get the load of the meter recorded but the Appellant refused to do that also. To support their case, the Discom also filed a detailed calculation sheet showing the electricity consumption against CA No. 151997848 for the billing period from 25.01.2021 to 24.12.2022 inclusive of electricity consumption for the months from March to September, 2023. The Appellant also submitted that they came to know that the Appellant during the period between 25.01.2021 to 24.12.2022 was getting some construction work done at her premises, which was an admitted fact by the Appellant. Photos of the site in question were also forwarded along with its written submissions.

The Discom further submitted that the appeal by the Appellant is in complete violation of the CGRF's order dated 25.09.2023, because neither she has approached the Discom nor paid any installments out of the outstanding bills till date.

9. The appeal was admitted and taken up for the hearing on 06.03.2024. During the hearing, the Appellant was presented along with her brother Shri Sanjeet Kumar and the Respondent was represented by its authorized representatives/counsel. An opportunity was given to both the parties to plead their case at length.

10. During the hearing, the Appellant reiterated her stand as submitted in the appeal. When asked for testing of the subject meter for its accuracy/fault, the Appellant refused it, as of earlier, in the Forum. It was explained to the Appellant that the interest (LPSC) has already been waived off by the Forum, and, therefore, the amount against actual consumption to be paid in six installments. The Appellant also submitted that her subject connection was also disconnected by the Discom on 22.11.2023. When further asked, what is the current source of energy at the premises? The Appellant submitted that since its disconnection (CA No. 151997848), electricity is being catered from another electricity connection (CA No. 150864167) existing in the same premises.

11. However, when asked from the Respondent what action has been taken against the officials who could not report the fault in the meter timely, they could not respond satisfactorily. In response to disconnection of the subject electricity connection on 22.11.2023, the Discom replied that it was disconnected due to non-payment of the first installment, as per CGRF's order dated 25.09.2023, only after serving a communication dated 03.10.2023, which was duly acknowledged by her.

12. This Court has heard both the parties and of opinion that for facilitating adjudication of the matter, Discom is to submit an affidavit along with a statement, indicating the details of billing and benefit of subsidy allowed to the Appellant during the period February, 2021 to March, 2022 and from April, 2022 to September, 2023. The Discom was also directed to get the subject meter tested for checking its accuracy and fault, if any. The requisite affidavit/report shall be submitted to this office within seven days.

13. On 20.03.2024, the Discom forwarded the requisite affidavit and additional information vide its e-mail dated 26.03.2024.

14. This Court has heard the contentions of both the parties, has gone through the appeal and written submissions submitted by the respective parties. There is no dispute that due to technical problem (faulty port), no readings were downloaded and

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provisional bills were raised for the period 26.01.2021 to 24.12.2022. No cogent reasons have been given for failure to check the meter, visit premises from time to time for readings and replacement of the defective meter (and corrective action) during 2021 and 2022. This resulted in violation of Regulations 29(16), 30(1), 30(10), 30(11), 32(1)(i) and 38 (1) of DERC's Supply Code, 2017. As per Regulation 30 (11), in the event of the provisional bills continuing for more than one billing cycle, the consumer may refuse to pay until the bill is raised as per actual reading. Despite direction of the CGRF, the Discom in violation of Regulation 50 & 51 of DERC's Supply Code, 2017 – resorted to disconnection without notice, for failure to pay. Further, no steps were taken during 2021 and 2022 to check the accuracy of the meter. The Respondent also allegedly refused to honor CGRF's order and demanded full payment instead of one-third of the amount as provided for in the Regulations, for filing of appeal before the Ombudsman. The Discom also allegedly demanded half of bill amount for meter testing, contrary to any guidelines.

15. With regard to Appellant's claims that she had paid approx. Rs.7000/- to Rs.8000/-, and received 'zero' bill for the period November, 2021 to November, 2022, and no bills have been received by her from December, 2022 to February, 2023. However, Annexure attached with the Respondent's reply shows that Rs.5,020/- was received by the Discom from April, 2021 to September, 2023. On scrutiny of the downloaded consumption sheet, it was found that last reading downloaded on 27.02.2021 was 8710 kWh and further on 24.12.2022, was 17866 kWh. As such, bill should be revised to 9156 units instead of 9306 units as charged by the Discom. Further, as per Regulation 29(16) of DERC's Supply Code, 2017, - *"it shall be the responsibility of the Licensee to maintain the meter and keep it in good working condition at all times."* However, in this case, from March, 2021 to November, 2022, no reading was downloaded. Though the Discom took plea of COVID-19, but during the material time, i.e. from March, 2021 to November, 2022, there was no grave COVID effect. It is surprising that for the 21 months (March, 2021 to November, 2022), neither meter reading was downloaded although the meter test report is OK nor Discom took cognizance of it, which clearly shows deficiency of services by the Discom. No responsibilities for the lapses were also fixed.

16. In view of above this court directed as under:

- (i) Revised bill be issue of 9156 KWH , which is difference of down loading readings on Dated 27.02.2021, 8710 KWH to next down loading reading of meter on Dated 24.12.2023 , 17866KWH , which should be sent to appellant in ensuing billing cycle.

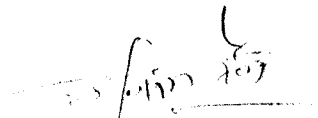
(ii) Amount of revised bill should also include deduction of one-third amount, i.e., Rs 17,365/ paid while filing appeal before this Court. The balance amount shall be payable by appellant in six equal installment with waiving off LPSC of disputed amount and undisputed period's amount shall be payable in one go.

(iii) Appellant will make the payment of each installment by due date & in case of default, Discom will be at liberty to recover the dues as per relevant regulations 42(3), 42(4) of DERC (Supply Code and Performance Standards) Regulations, 2017.

(iv) In the instant case, the Discom has failed to adhere Regulations 29(16), 30(1), 30(11), 32(1)(iii) and 38(1). CEO BRPL is, therefore, directed to issue proper orders/circular down the line for strictly adhere to the Supply Code, 2017, in vogue, and also to order an enquiry to be conducted in this case, for fixing accountability for the lapses.

(v) Action taken report be shared with this office within 30 days of this order.

The appeal stands disposed off accordingly.


(Anil Jain)
(Electricity Ombudsman)
27.03.2024