

(185)

**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-cum-Fax No.: 011-26141205)

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**Appeal No.748/2016**

**IN THE MATTER OF:**

Shri Aryan Koura - Appellant

Vs.

M/s BSES Rajdhani Power Ltd. – Respondent

(Appeal against Order dated 12.04.2016 passed by the CGRF- BRPL in CG  
No.95/2015)

**Present:**

**Appellant:** Shri Sumit Singh Benipal & Shri Abhinav Tandon on behalf of  
the Appellant

**Respondent:** Shri Sanjay Bhagat, DGM, Shri Prashant Saxena, Manager,  
Shri Arav Kapoor and Shri Aditya Gupta, Advocates –  
authorized representatives of the Discom.

**Date of Hearing:** 20.09.2016

**Date of Order:** 26.09.2016

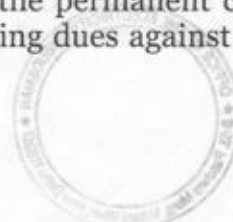
**ORDER**

1. Appeal No. 748/2016 has been filed by Shri Aryan Koura, No.237, Block 3, Second Floor, Tribhuvan Complex, Ishwar Nagar, New Delhi – 110065, against CGRF-BRPL's order in CG No.95/2015 dated 12.04.2016.

2. The background is that a temporary connection was energized on 06.02.2003 in the Appellant's premises with a permanent connection at the same place being released about 6 months later on 20.08.2003. The Appellant, however, received a disconnection notice dated 07.10.2014 – eleven years later - for alleged non-payment of dues amounting to Rs.1,15,520/- against his regular connection. His enquiry revealed that this figure included Rs. 85,988/- as outstanding against the temporary connection which he had earlier before getting a permanent one.

3. His plea that all dues against the temporary connection had already been paid and it was only after that was it converted into a permanent one was ignored by the Discom (the Respondent) which held that although the permanent connection was installed and energized when there were no outstanding dues against the temporary

*Prishma*



(184)

connection, the latter had not been disconnected as the Appellant had not applied for the same. On receiving the show cause notice for disconnection, the Appellant paid a sum of Rs.79,812/- on 14.11.2014 under protest as the Discom refused to accept current dues only but insisted on payment of the entire sum demanded. When the Appellant made representations against the bills, the Discom later revised the outstanding dues of the temporary connection downwards in Sept, 2014 to Rs.39,692/- and further again Rs.37,691/-, using an actual reading basis instead of an average basis as they did earlier and after withdrawing the LPSC.

4. The Appellant then approached the CGRF for, inter alia, cancellation of the demand notice for the erstwhile temporary meter, pleading that it was time barred and not recoverable under Section 56 (2) of the Electricity Act, 2003. The CGRF did not accept the limitation argument, holding that it was not applicable in the case of a disconnected connection where only a recovery procedure was to be initiated and that the Discom was entitled to recover dues for electricity actually consumed. The Forum, nevertheless, awarded compensation of Rs 2,000/- for the inconvenience caused to the Appellant on account of the delay on the part of the Discom.

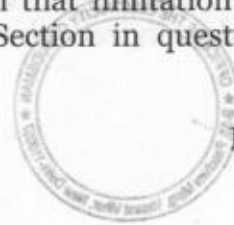
5. In his appeal against the CGRF's verdict, the Appellant has reiterated his stand that he had paid all dues outstanding against the erstwhile temporary connection before it was converted into a permanent one in August, 2003 and has again invoked Section 56(2) claiming that the recovery demand is time barred with the Discom admitting its delay of eleven years in producing the bill.

6. For its part, the Discom (the Respondent) has repeated its earlier position that while the permanent connection was granted in August, 2003 with no outstanding dues against the temporary connection at that point in time, the temporary connection itself was not disconnected as no such request was received from the Appellant and neither was it converted into a permanent one. According to them, the responsibility for filing a request for disconnection of the temporary connection rested squarely with the Appellant. It was finally disconnected on 02.09.2004 for non-payment of outstanding dues and when the meter's last reading stood at 11,716 units.

7. I have gone through the case records and heard both parties. There was no dispute regarding the arrears/bills till May, 2014 when the Appellant was served with the notice for payment of dues pertaining to his erstwhile temporary connection which was transferred and incorporated into his current bill for June, 2014. It is an admitted fact that the temporary connection was located in the same premises and in the same consumer's name as the permanent connection. Both connections have different identities with different CA numbers. Dues pertaining to the temporary connection had been paid up to August, 2003 for a meter reading of 2,700 units when the permanent connection was energised. The temporary meter showed a final reading of 11,716 units on 02.09.2004 when it was finally disconnected and removed for non-payment of dues. The Appellant is, therefore, liable to pay for the units actually consumed.

8. The Appellant has invoked the provision of limitations under Section 56 (2) of the Electricity Act, 2003 to argue that the Discom's claim is time barred. I have looked into this issue and am of the considered opinion that limitation cannot be invoked as the issue involved here is different. The Section in question clearly

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provides that no sum due from any consumer shall be recoverable after period of two years from the date when such sum became first due "unless such sum has been shown continuously as recoverable as arrear of charges..." It does not debar or restrict the recovery of the old dues pertaining to a connection which has been permanently disconnected and whose arrears were not being reflected continuously till the time it was raised for the first time. In the instant case, no fresh bills were to be issued and only a recovery procedure was to be initiated. This case is one of transfer of dues where the dues against the temporary connection have been transferred to the permanent one and became first due in June, 2014 when the bill, which included the arrears, was issued. The DERC's Supply Code and Performance Standards Regulations, 2007 do not provide any specific time limit for cases involving transfer of dues. The Discom, therefore, cannot be restrained from the recovery of the old dues against an actual consumption of electricity merely on the grounds that there was a delay in the initiation of the recovery process. The culpability of the Discom in this delay, however, is discussed separately below.

9. The Appellant has quoted the APTEL case (Appeal No. 74 of 2007) in Ajmer Vidyut Vitran Nigam Ltd vs Rajasthan Electricity Regulatory Commission and Rajasthan State Mines and Minerals Ltd and has quoted extracts from it to buttress his contention that limitations are applicable in his case. That case has to be viewed in its totality and not through selective extracts. It involved a dispute between two state government entities under which one entity had billed the other for arrears after adopting a revised computing procedure whereas the present case is one of transfer of dues. For the same reason, the Discom's extensive recapitulation of past case histories like the HD Shourie vs MCD Delhi 1987 or Tata Steel vs Jharkand SEC 2008 - just to name a few - are not material to this case and out of context.

10. Having established that the Appellant is liable to pay for the electricity which has already been consumed through the temporary connection, the residual question which remains is the Discom's liability in allowing such a situation to arise in the first place. The Discom cannot simply absolve itself of all liabilities by simply arguing that the temporary connection had not been removed at the time the permanent connection was sanctioned merely because the consumer had not made a request for the same and then waking up after a lapse of eleven years to serve a bill of arrears. All monitoring systems are supposed to incorporate mechanisms for checks and balances so that even if records of events like dates of connection/disconnection go missing through oversight, the error should be capable of being detected through some other means. The Discom has not been able to offer any plausible reason/s for not acting for more than a decade other than harping on its rights of recovery of arrears.

11. Neither has the Discom has provided any cogent explanation for having served a recovery notice for Rs.85,985/- in the first place, revising it downwards to Rs.39,692/- in the first instance and then again to Rs.37,691/- after the Appellant's protests. The first figure has been explained by them as having been worked out on an average billing basis while the revised figure is on the basis of the actual meter reading of 11,716 units. This, which is more of an excuse rather than a cogent explanation, only evidences a clear negligence on the part of the Discom and the arbitrary manner in which they have gone about computing the arrears payable without any proper scrutiny of records. It is clear that there is complete disconnect

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between the concerned constituent wings of the Discom which has led to this unfortunate situation arising.

11. It would not be out of place here to observe that the Appellant could have been a little more proactive and alert to the requirement that he had to put an application for the removal of the temporary connection in the first place. At the same time, the Discom's argument that the responsibility for filing a request for the disconnection of the temporary connection rested squarely and solely with the Appellant – the imputation being that the Discom had neither any role to play in it nor the need to take any initiative – smacks of an attitude of irresponsibility as well as an obvious attempt to paper over its own lapse. The greater responsibility for the present state of affairs indubitably devolves on to Discom.

12. Against this background, I cannot fault the CGRF's verdict that the Appellant is liable to pay for the electricity already consumed against the temporary connection till its actual disconnection. Given the patent negligence on the part of the Discom, however, I find that the compensation of Rs.2,000/- awarded by the CGRF is not in proportion to the harassment which the Appellant has had to go through. Accordingly, the compensation payable by the Discom to the Appellant is hereby enhanced to Rs.15,000/- which may be paid within two weeks from the receipt of this order. The verdict of the CGRF hereby stands amended to that extent and the appeal disposed off.

*Sundaram Krishna*

**(Sundaram Krishna)  
Ombudsman  
26.09.2016**

