

BEFORE THE VIDYUT OMBUDSMAN

::Present::

C. Ramakrishna

Date: 17-05-2014

Appeal No. 74 of 2013

Between

M. Lakshmoji Rao

Prop: Ratnam Saw Mill

Saluru

Vizianagaram Dt. 535 591

Mobile: 89779 47736

... Appellant

And

1. The Assistant Engineer, Operation, APEPDCL, Saluru, Vizianagaram Dt
2. The Assistant Divisional Engineer, Operation, APEPDCL, Saluru,
Vizianagaram Dt
3. The Assistant Accounts Officer/ERO, Bobbili, Vizianagaram Dt
4. The Divisional Engineer, Operation, Bobbili, Vizianagaram Dt

... Respondents

The above appeal filed on 12-06-2013 has come up for final hearing before the Vidyut Ombudsman on 03-05-2014 at Vizianagaram. The appellant as well as respondents 1 to 4 above were present. Having considered the appeal, the written and oral submissions made by the appellant and the respondents, the Vidyut Ombudsman passed the following:

AWARD

2. The appeal arose out of the grievance of the appellant that while he was agitating against the collection of Rs. 6,092/- towards LPF surcharges, based on the orders of the CGRF, the respondent officers had only adjusted Rs. 1,037/-.

3. On 12-06-2013, the appellant filed the appeal stating that he is an LT Category III consumer with a connected load of 25.4 HP; that while his installed capacitors of 12 kVAR are in working in good condition, the respondent officers have been imposing LPF surcharges since December, 2009 without any notice or without any testing of the capacitors; that to prevent disconnection, he paid all the bills duly making representations against the levy of LPF surcharges; that the respondent officers have wrongly stated before the CGRF that they have advised him several times to install capacitors of adequate rating; that the respondent authorities have never inspected / tested the capacitors in his premises, nor did they issue any notice before the levy; that the CGRF had ordered the withdrawal of surcharges levied; that while his complaint was about illegal collection of Rs. 6,092/- the respondent officers made a refund of only Rs. 1,037/- towards shortfall. The appellant sought finally that the respondent officers may be directed to refund Rs. 6,092/-.

4. The respondents were served with a notice for hearing the case, directing them to submit their written submissions, if any, duly serving copies of the same on the appellant. The respondent AAO submitted a written submission on 30-01-2014 stating that a capacitor surcharge of Rs. 1,037/- was

levied on the consumer based on an internal audit query for the period March, 2009, June, 2009 to August, 2009; that the consumer was served with a notice for the same through Assistant Engineer, Saluru; that the consumer paid the demand so raised in May 2011; that on CGRF's orders, the capacitor surcharge so levied was withdrawn and credited to the consumer's account in January, 2013; that the consumer appellant is contesting the collection of Rs. 6,092/- towards LPF surcharges; and that the capacitor surcharge collected for the period 03/10 to 04/11 (amounting to Rs. 3,522/-) and additional surcharge for the period 03/08 to 01/13 (amounting Rs. 2,694/-) were levied from time to time as per tariff order.

5. On 27-01-2014, the appellant filed another written submission reiterating his original contentions and he also further stated that before levying LPF surcharges, the respondent officers have never given any notice of any kind; that when the CGRF asked them, they wrongly submitted to the CGRF that that they have issued notices; that when he asked them to show the proof of having served the notices, they could not show the same; that as the respondent AAO only responded to the missives of the CGRF, he got back only the shortfall amount of Rs. 1,037/- but not the full amount of LPF charges that were collected improperly from him; that for the months of May, 2011 to November, 2011 the respondents recorded the PF as 0.000 which is totally wrong on the part of the respondent officers; and that all his requests for getting the capacitors tested have gone unheeded by the respondents.

6. As there was some difference in the figures being referred to by the appellant and the respondents, during the hearing on 24-03-2014, the respondents and the appellant were directed to sit together and reconcile the

figure work to arrive at a common understanding of the disputed figure. At the time of hearing on 03-05-2014, the appellant as well as the respondent AAO submitted written submissions.

7. The appellant in his written submission filed on 03-05-2014 stated that subsequent to the hearing on 4-03-2014, he tried to trace all the bills and receipts for three of the months, the figures of which are not tallying with the figures of the respondent AAO and that in spite of his best efforts he could not trace them due to passage of long time; that the surcharges figure arrived at by the AAO may be adopted as the record of original bills are not available with him; and requested for withdrawal of all surcharges levied, withdrawal of delayed payment surcharge of Rs. 250/- per month, award of expenses and compensation to an extent of Rs. 15,000/- and waiver of charges for 806 units for the period May, 2011 to November, 2011.

8. The respondent AAO submitted in her written submission on 03-05-2014 that in spite of communicating her willingness to reconcile the differences in the figure work relating to LPF surcharge and late payment surcharge, the consumer appellant has not come forward to reconcile the same; that as per her office records, the LPF surcharge and late payment surcharge levied is only about Rs. 3,809.62/- and not Rs. 6,092/- as is being claimed by the appellant.

9. Heard the appeal finally at finally at Vizianagaram on 03-05-2014. At the time of the hearing the appellants as well as the respondents have reiterated their written submissions. The appellant further pleaded that not only should all the charges being contested by him be waived, but that he should also be compensated for the mental agony and torture that he was put

through. He further pleaded that when the DISCOM is charging Rs. 250/- for even a Rs. 1/- non payment as delayed payment surcharge, he should also be equitably compensated for the excess amounts collected from him forcibly. On their part, the respondents argued that they have levied the LPF surcharges and delayed payment surcharges only as per tariff order and hence there is nothing wrong with the levy. Regarding the delayed payment surcharge of Rs. 250/- for even a non-payment of Rs. 1/-, they said it arose out of the peculiar situation that exists in rural areas. In rural areas, the bill collectors fan out into the interior areas to collect the dues from the customers. When they so approach the consumers, in instances where the bill amount ends with odd amounts like Rs. 1 or Rs. 3, the bill collectors will not be in a position to offer the exact change in return to the consumers and hence end up collecting the nearest ten rupees. As this gets reflected as non-payment of that odd rupee or so in their systems, this results in identification of the consumer for levy of delayed payment surcharge. Thus, it is all a system generated issue, but not done intentionally to harass the consumer.

10. The CGRF noted in its order that before levying LPF charges, the respondent officers have to issue a one month notice to the consumer asking him to replace the existing capacitors with suitable rated capacitors. As the respondent officers failed to issue such a notice before raising the demand of Rs. 1,037/- the forum directed that the same shall be withdrawn.

11. A perusal of the consumer history sheet that is submitted by the respondents during the course of the hearings, reveals that the consumer is levied additional charges for belated payment of bills for the period 03/2008 to 12/2013 to a tune of Rs.2,693.61 while the LPF surcharges levied for the period

03/2010 to 04/2011 amounted to Rs. 3,648.87. These two figures sum up to a total amount of Rs. 6,342.48/-. What the consumer agitated before the CGRF was for Rs. 6,092/- (a figure which is short of Rs. 250/- to the total figure of Rs. 6,342.48/-).

12. As per the history sheet submitted by the respondents, the consumer belongs to LT III Industrial Normal category. This much is not in dispute. That the consumer's service connection is fitted with an LT Trivector meter also is not in dispute. As seen from the order of the CGRF, there was an audit objection raised for not levying LPF surcharge on the consumer for the period April 2009 to July 2009. Based on this, the respondents raised a demand of Rs. 1,037/- on him and the consumer paid the same on 14-05-2011. The CGRF in its order held that a notice ought to have been issued before levying LPF surcharges.

13. The CGRF appears to have confused the issue of levy of capacitor surcharge with liability to LPF surcharges. Levy of capacitor surcharge calls for issue of a notice. Levy of LPF surcharges is automatic and is computed along with the regular CC bill. As per tariff condition iv, all LT III (A) consumers who have a load of more than 20HP but below 50 HP shall be fixed with an LT Trivector meter, as per tariff orders. As per tariff condition vi, those of the consumers who are provided with LT Trivector meters, shall be required to pay LPF surcharge as applicable to HT consumers subject to the ceiling of the capacitor surcharge (25%) specified for LT consumers under Part D (paragraph (4)) of Annexure D. In accordance with this provision, the levy of LPF surcharge is automatic and does not require any notice to be issued.

14. Capacitor surcharge is different and distinct from LPF surcharge. Capacitor surcharges are levied only after an inspection of the premises of the consumer and if it is found that there are no capacitors (where they are mandated to be) and / or the installed capacitors are not of sufficient capacity or that the capacitors are not in working condition. In contrast, LPF surcharge is a surcharge for recording a low power factor. This is to be levied automatically along with regular monthly bills, as per the tariff order. In the instant case, it is not the case of the respondents that they have inspected the consumer's premises and hence levied capacitor surcharge. Instead, the case is one of levy of LPF surcharge, which is for recording low power factor. This is an automatic levy.

15. In so far as additional charges for belated payment are concerned, these charges are liable to be paid by any consumer whenever the bills are paid by him beyond the due date prescribed. The consumer appellant herein has never contested the delays identified in his payments. But his grievance is about making him pay Rs. 250/- as belated payment charges for even a single day of delay and for non-payment of even Rs. 1/-. As he expressed this grievance without there being a backing of data, this is an issue that can be looked into by the respondents with the available data at their end. Making a consumer liable to pay Rs. 250/- towards belated payment surcharges for non-payment of a few rupees below Rs. 10/- because the bill collector could not return the exact change to the consumer, is horrendous. The consumer history sheet of this appellant reveals that he has been subjected to levy of belated payment of surcharges of Rs. 250/- each for the months of May 2012 to January 2013 (except for 06/2012, 11/2012 & 12/2012). The respondent officers shall examine whether or not there are any instances

of this having been levied for non-payment of a part of the CC bill amounting to less than Rs. 10/- in any month. If it is found so, they shall reverse the levy of belated payment surcharge.

16. One more issue that the consumer appellant herein has raised in his written submission dated 03-05-2014 is about additional 806 units that he is subjected to for showing a PF of 0.000 during the period May 2011 to November 2011. The said 806 units are not really charged to him in excess. From the tariff year 2011-12 onwards, kVAH billing is made mandatory to all the LT III consumers by the Hon'ble Commission. It is but natural that the DISCOM will consider only kVAH reading and ignore kWH reading for billing purpose. kVAH and kWH readings will obviously differ in quantities. That is why the appellant should understand that he is not being charged in excess.

17. The consumer appellant appears to be under a mistaken impression that he is wronged unnecessarily or with some malafide intention on the part of the respondent officers. There is no reason to feel so. The respondent officers, as well as the CGRF appear to have acted in good faith. There is no cause for complaint. To err or overlook is but common. As long as there is no malafide intention on the part of the respondent officers, the appellant need not have any grievance.

18. Therefore, it is hereby ordered that:

- the LPF surcharges levied by the respondent officers is correct and need not be interfered with;
- the respondent officers shall verify whether or the appellant herein has been subjected to belated payment surcharge of Rs. 250/- towards non-

payment of a part of the CC bills amounting to less than Rs. 10/- for the months of May 2012 to January 2013 (except for 06/2012, 11/2012 & 12/2012). If it is found so, they shall waive of the penalties of Rs. 250/- each levied against those months. If not, the belated payment surcharges levied will stay;

- the respondent officers shall show compliance to this order within 15 days from the date of receipt of this order; and shall communicate their compliance with this order within 15 days from thereafter.

19. This order is corrected and signed on this 17th day of May, 2014.

VIDYUT OMBUDSMAN

To

1. M. Lakshmoji Rao, Prop: Ratnam Saw Mill, Saluru, Vizianagaram Dt. 535 591
2. The Assistant Engineer, Operation, APEPDCL, Saluru, Vizianagaram 535 591
3. The Assistant Divisional Engineer, Operation, APEPDCL, Saluru, Vizianagaram 535 591
4. The Assistant Accounts Officer/ERO, APEPDCL, Bobbili, Vizianagaram Dt
5. The Divisional Engineer, Operation, APEPDCL, Bobbili, Vizianagaram Dt

Copy to:

6. The Chairperson, CGRF, APEPDCL, P & T Colony, Seethammadhara, Near

Gurudwara Junction, Visakhapatnam - 530 013.

7. The Secretary, APERC, 11-4-660, 5th Floor, Singareni Bhavan, Red Hills,
Hyderabad - 500 004.