



TAMIL NADU ELECTRICITY OMBUDSMAN

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BEFORE THE TAMIL NADU ELECTRICITY OMBUDSMAN, CHENNAI

Present : Thiru. A. Dharmaraj, Electricity Ombudsman

Appeal Petition No.41 of 2015

Tmt.Kapila,
W/o A. Nithyakumar,
3/139, Ramapuram Main Road,
Manapakkam,
Chennai – 600 089.

. Appellant
(Rep by Tmt. Kapila Nithyakumar)

Vs.

The Superintending Engineer,
Chennai Electricity Distribution Circle/South,
TANGEDCO (formerly TNEB),
110 K V SS Complex, K.K. Nagar,
Chennai - 63.

. Respondent
(Rep. by Thiru. K. Chellaiah, EE/O&M/Guindy)

Date of hearing : 25.8.2015 & 28.9.2015

Date of Order : 19.11.2015

The petition dated 18.4.2015 filed by Tmt. Kapila Nithyakumar was registered as appeal petition No.41 of 2015. The above appeal petition came up for hearing before the Electricity Ombudsman on 25.8.2015 & 28.9.2015. Upon perusing the appeal petition, Counter Affidavit and after hearing both sides, the Electricity Ombudsman passes the following order.

ORDER

1. Prayer of the Petitioner :

Due to wrong entry made by the assessor in their service connection they have been charged with theft of energy . This may be enquired.

2. Brief history of the case:

2.1. The service connection No.322-004-637 was effected in the name of Thiru. A. Nithyakumar and the service is coming under the jurisdiction of the Respondent.

2.2. While taking reading of 5/2011 assessment period, the reading was entered as 2900 and CC charges of Rs.10,604/- was levied on the consumer. The consumer represented to the officers of the licensee that the above high consumption recorded is due to wrong entry of reading in the meter card. But, no action was taken by the officers of the licensee.

2.3. They have been charged with theft of energy also.

2.4. The Appellant filed a petition before the CGRF in this regard on 26.2.2015. but CGRF has not issued its order. Hence, she filed this appeal petition before the Electricity ombudsman. As 50 days have since been passed from the date of filing of petition before the CGRF, the petition was registered as appeal petition No.41 of 2015.

2.5. The CGRF has issued its order on 11.6.2015.

3. Findings of the CGRF :

From the records furnished by Executive Engineer/O&M/ Guindy it is ascertained that disconnection and reconnection entry has been made in the consumer ledger.

The petition has arisen due to not responding to the complaints with in the stipulated time for all the petitions given by the petitioner. The petitioner is eligible for receiving compensation of Rs.250/-. Hence, EE/O&M/Guindy is directed to take immediate action to pay the compensation charges to the petitioner and the compliance report shall be sent to this office within 15 days from the date of receipt of this order.

The representation by the petitioner regarding theft of energy, does not come under the purview of CGRF forum as per CGRF regulation 5 of part II.

4. Contentions of the Appellant :

- 4.1. In service connection No.322-004-637 the consumption was recorded as 2780 units and a CC charges of Rs.10604/- was levied for 5/2011 assessment period.
- 4.2. Immediately representation was submitted to Assistant Engineer/O&M/Mugalivakkam on 13.7.2011 and reminded vide representation dt.21.1.2012, 22.9.2012 and to Assistant Engineer/Manapakkam on 30.12.2013.
- 4.3. As there was no response for the representation given to concerned Assistant Engineer, a representation was submitted to Superintending Engineer/Chennai EDC/South on 21.1.2014. But there was no action by the Superintending Engineer also. Hence, the Superintending Engineer also violated the orders of the Regulatory Commission.
- 4.4. Due to the above inaction they have been charged with theft of energy. Hence, the Appellant has requested the forum to take necessary action.
- 4.5. Further, as there was a lapse on the part of the Chairman CGRF also she may be informed about the authority to whom she may raise the above issue.

5. Contentions of the Respondent :

- 5.1 The Appeal petition addressed to the Chairman, Consumers Grievance Redresal Forum, CEDC/South, K.K. Nagar was received on 12.2.2015 and acknowledged vide letter No.CH/CGRF/CDC/S/AEE/F.Cons Red.Forum 17/D.254/dt.26.2.2015.
- 5.2 Necessary enquiry was scheduled on 29.4.2015. Due to sudden illness of one member of CGRF, the enquiry could not be conducted and the same was postponed and conducted on 26.5.2015.
- 5.3 The CGRF orders have already been communicated to the petitioner where in the following findings were given. The petitioner is eligible for receiving compensation of Rs.250/- (for not responding to the complaints within stipulated time) and Executive Engineer/O&M/Guindy is directed to take action to pay the compensation charges. The representation by the petitioner regarding theft of energy does not come under the purview of CGR forum as per CGRF regulation 5 of part II.

6. Hearing held by the Electricity Ombudsman:

- 6.1. To enable the Appellant and the Respondent, to put forth their arguments in person, a hearing was scheduled before the Electricity Ombudsman on 7.8.2015. The above hearing was postponed to 25.8.2015 as the respondent has requested for postponement.
- 6.2. Accordingly, hearings were conducted on 25.8.2015 and 28.9.2015.
- 6.3. The Appellant herself attended the hearing on both the days and putforth her side arguments.

6.4. Thiru K. Chellaiah, EE/O&M/Guindy has attended the hearing on behalf of the Respondent on both the days and putforth his arguments.

7. Arguments putforth by the Appellant during the hearing :

- 7.1. Tmt. Kapila Nithyakumar reiterated the contents of her appeal petition.
- 7.2. She argued that the wrong entry of reading by the Assessor was brought to the knowledge of the Assistant Engineer immediately on 1.6.2011 and requested for correction in the system to enable her to make payments. She furnished a copy of letter dt.1.6.2011. But informed that no acknowledgment was given by the office.
- 7.3. She also informed that the Assessor has recorded meter reading of 2900 noted in SC No.322-004-636 available in the same premises as reading for service connection number.322-004-637 also. But the Assistant Engineer has not taken any action to correct the above mistake even after submitting representations to him. She also argued that the consumption of 2780 units recorded in the said service is very high when compared to the previous high consumption of 60 units recorded during 6/2010 assessment period.
- 7.4. She also informed that representation in that regard were made on 13.7.2011, 21.1.2012, 22.9.2012 and 30.12.2013, and all were acknowledged by the office staff but no action was taken on the above petitions.
- 7.5. She also argued that she has made a representation to the Superintending Engineer/Chennai EDC/South also on 21.1.2014. But no action was taken on her complaint.

- 7.6. She has not paid any CC charges from 5/2011 assessment period onwards. But supply was not disconnected for the said service. In spite of the above fact, in computer it was entered that service was disconnected on 24.6.2011 and reconnected on 20.4.2013.
- 7.7. Had action was taken on any one of her representations by the officers of licensee, her problem would have been solved and the theft of energy case would not have arisen at all.
- 7.8. As the service was not disconnected the service was utilized. But, charges were made as if the disconnected service was reconnected by the consumer. Hence, she argued that the consumer shall be exonerated from the charges of theft.
- 7.9. The Appellant also informed that the meter was also changed on 23.8.2011 as per the entries of Initial reading and final reading recorded in the meter card. Citing the above, the Appellant argued if the service was under disconnection what is the need for changing the meter?
- 7.10. The Appellant also informed that appeal in this regard to EE/Operation/Taramani was also not entertained as the assessment was made under section 135 of the Act.

8. Arguments putforth by the Respondent's Representative :

- 8.1. Thiru. K. Chellaiah EE/O&M/Guindy attended the hearing on behalf of the respondent and putforth his side arguments.

- 8.2. The EE argued that the consumer has not paid the CC charges for 5/2011 assessment period. Citing the entry in the computer, the EE argued that the service was disconnected on 24.6.2011.
- 8.3. The EE also informed that as per the concerned AE's submission, the Appellant went to the office and sought for reconnection. Based on the request, an entry was made in the computer for reconnection to enable collection of the dues. But, the consumer went away without making the payment. Hence, there was an entry in the consumer ledger as reconnection, but no reconnection was made.
- 8.4. The EE also argued that the consumer has not paid the CC charges and the service is under disconnection. During inspection by APTS it was noticed that the service was reconnected and utilised by the consumer. Hence, theft of energy case was booked.
- 8.5. To the question of the Electricity Ombudsman, why the assessor who was taking the reading in the other SC No.322-004-636 has not taken any reading in the meter fixed next to it in the same premises to confirm the disconnection, the EE replied that only Inspector of Assessment has to verify the disconnected service and the assessor need not take reading in the disconnected service.
- 8.6. The EE informed that the DCRC register for the above period is not available in the above section.
- 8.7. On 28.9.2015 the respondent's representative also informed that based on the representation received on 30.12.2013, the Appellant was asked to pay a sum of Rs.10604/- vide letter dt.7.1.2014. But, the appellant has not paid the amount.

- 8.8. The EE also informed that the test report obtained while effecting the service connection was not traceable.
- 8.9. The EE also informed that there is no record in the office about the meter change in the above service.
- 8.10. The EE informed that capital make static meter bearing No.6732585 is now available in the service and informed that the said meter was supplied against P.O.No.8/dt.21.4.2011.
- 8.11. The EE also informed that they are unable to identify the signature available in the meter card against the entry of initial and final reading noted on 23.8.2011.

9. Findings of the Electricity Ombudsman

9.1 On a careful consideration of the arguments put forth by the Appellant, I find the prayer of the Appellant consists of two parts.

- (i) The meter reading entered on 28.5.2011 as 2900 is wrong.
- (ii) The consumer has to be exonerated from the charges of theft of energy.

9.2 Regarding the second prayer, I would like to refer regulation 5 of the Regulations for CGRF and Electricity Ombudsman which is extracted below :

The forum shall take up any kind of grievances/complaints as defined in clause 2 (f) of these Regulations. However, the consumer's grievances concerned with

(i) unauthorized use of electricity as detailed u/s 126 and

(ii) offences and penalties as detailed u/s 135 to 141 of the Electricity Act 2003 are excluded from the purview of this forum.

9.3 On a careful reading of the said regulation , it is noted that the offences and penalties as detailed under section 135 to 141 of the Electricity Act 2003 are excluded from the purview of the forum. As the second prayer of the Appellant is exonerating the consumer from theft of energy case, I am of the firm opinion that the Electricity Ombudsman, cannot deal with the theft case as it is coming under section 135 of the Act. Hence, I am not considering the second issue for issue of any orders.

9.4 In view of my findings in previous para, first issue (ie) entering wrong meter reading for 5/2011 assessment period alone considered for issue of an order.

9.5 The Appellant informed that the meter reading entered on 28.5.2011 was 2900 and the consumption recorded was 2780 units. The Appellant also informed that in the said premises, there are two services with service connection No.322-004-637 & 322-004-636 and both the services were effected in the name of Thiru. A. Nithyakumar.

9.6 The Appellant argued that the meter reading recorded for 5/2011 assessment period in SC No.322-004-636 is 2900 units. The consumption recorded in the above service is 1090 units and there is no dispute over the above consumption recorded.

9.7 The Appellant argued that the assessor has wrongly entered the reading of 2900 recorded for the other service (viz) 322-004-636 as the reading for the disputed service connection No.322-004-637 also and assessed the consumption as 2780 units for 5/2011 assessment period which is abnormally high and incomparable with the previous high consumption of 60 units per assessment period recorded during 6/2010 assessment period.

9.8 The Appellant also informed that as per the reading entered on 28.7.2011, the reading is 140 only . Hence, she argued that the reading noted as 2900 on 28.5.2011 is wrong.

9.9 The Appellant also informed that the above meter was changed on 23.8.2011 and the final reading noted in the card is 00139. Citing the above she argued that the entry of 2900 made on 28.5.2011 pertains to other service and not pertain to 322-004-637.

9.10 The Respondent argued that the reading entered on 28.5.2011 in SC No. 322-004-637 is 2900 as per the consumer ledger and the consumption recorded for 5/2011 is 2780 units. The consumer has not paid the CC charges and hence the service is disconnected on 24.06.2011 as per entry in the consumer ledger.

9.11 The Respondent also argued that the entry as 00140 on 28.07.2011 as argued by the Appellant has not find a place in the consumer ledger and the change of meter is also not find entry in consumer ledger and hence argued that the reading of 2900 recorded on 28.5.2011 may be correct.

9.12 In order to arrive at the conclusion on the reading entered on 28.05.2011, I would like to analyse the consumption pattern of both the services available in the premises. The details of meter reading and consumption as per consumer ledger for SC.No.322-004-636 and SC.No.322-004-637 are furnished below:

SC.No.322-004-636				SC.No.322-004-637			
(Service effected on 22.03.2010)				(Service effected on 22.03.2010)			
Period	Reading date	Meter Reading	Consumption	Period	Reading date	Meter reading	Consumption
4/2010	30.04.2010	180	171	4/2010	29.04.2010	10	5

6/2010	29.06.2010	280	100	6/2010	29.06.2010	70	60
8/2010	28.08.2010	510	230	8/2010	28.08.2010	70	0
10/10	28.10.2010	840	330	10/2010	28.10.2010	70	0
12/10	31.12.2010	1160	320	12/2010	31.12.2010	80	10
2/2011	28.02.2011	1490	330	2/2011	28.02.2011	80	0
4/2011	28.04.2011	1810	320	4/2011	28.04.2011	120	40
5/2011	31.5.2011	2900	1090	5/2011	28.05.2011	2900	2780
7/2011	28.07.2011	3950	1050	6/2011	24.06.2011	2900	Disconnected
9/2011	28.09.2011	4610	660				

9.13 On a careful study of the above readings and consumption pattern the following are observed:

- (i) It is noted that the total consumption recorded in SC.No.322-004-637 from 22.03.2010 to 28.04.2011 is only 115 units and consumption for one month from 28.04.2011 to 28.05.2011 alone is 2780 units.
- (ii) In respect of 5/2011 assessment period, in both the meters, the reading recorded is same as 2900 units only. However, it is noted that while the reading for SC.No.636 is taken on 31.05.2011, the same month reading was recorded as taken on 28.05.2011 in SC.No.637. Except for 5/2010 & 5/2011 the readings were recorded on the same date in both the services. It is to be also noted here that both the services are in the same premises.
- (iii) It is also observed that the consumption for 05/2011 (i.e) for one month is very high in both the services (i.e) 1090 units and 2780 units for 322-004-636, 322-004-637 respectively. Though the consumption recorded is high in both the services, the consumption of 2780 units for a month in SC No.322-004-637 when the previous one year consumption is about 115 units is abnormal. In a single phase service connection with a sanctioned load of 2 Kw, even if we assume full load on all the days, the consumption could be only (30X2X24) 1440 units for 5/2011. Hence, either, the reading noted on

28.05.2011, is wrong or the meter may be faulty or the connected load may be more than the sanctioned load.

9.14 In the Xerox copy of consumer meter card furnished by the Appellant, it is noted that on 28-07-2011, the meter reading is noted as 00140 and the consumption is recorded as 20 units. [Considering the previous reading as 120 (i.e) ignoring the reading of 2900 recorded on 28-05-2011]. The following entries were also available in the consumer meter card.

23.8.2011, FR : 00139, IR : 00000,

A full signature is available against the above entry without indicating the designation. But there is no mention about the change of meter. For 9/2011 assessment period the reading was noted as 290 that means the consumption is 290 units for 9/2011 assessment period. However, the above entries in the consumer meter card after recording the meter reading as 2900 have not been found a place in the consumer ledger. But the disconnection on 24.06.2011 is entered in the computer consumer ledger on 06.09.2011.

9.15 As per the Executive Engineer/Guindy's statement, the meter now available in SC.No.322-004-637 is capital make static meter, with SI.No.6732585. The EE also informed that the above meter was supplied against P.O.No.8 dated 21.04.2011.

9.16 But as per the consumer ledger, the meter available in the service is TESCOM make, high quality meter with SI.No.586313.

9.17 The meter now available in service is capital make static meter. The same meter could not have been erected in the service while effecting the service on 22.3.2010 as it was supplied against P.O.No.8 dated 21.04.2011 only. As the P.O. for capital make

meter was placed one year after energization of the service, the argument of the Respondent that there is no change of meter in the said service is not acceptable to me. I am of the view that the meter in the above service connection was changed. As there is a change in meter, the entries of final reading noted in the consumer meter card on 23.08.2011 could be treated as the meter change entry (The above entry has been authenticated also). As per the above entry, the final reading is 00139. If the final reading as on 23.8.2011 is 00139, the entry of 2900 made on 28.05.2011 has to be treated as wrong entry only. Incidentally, I have to point out here that, the another service effected in the same premises have the same reading as 2900 for 5/2011 assessment period and there is no dispute between the Appellant and the Respondent over the above meter reading. Hence, the argument of the Appellant that there is a possibility of wrongly entering the meter reading of other service available in the same premises as the reading of SC No.322-004-637 could not be ignored by me.

9.18 In view of the observation made in para 9.13 to 9.17 above, it is held that the meter reading noted down as 2900 in SC.No.322-004-637 on 28.05.2011 is wrong.

9.19 It is also noted that the consumer has filed representation about the wrong entry to the AE / Mugalivakkam on 01.06.2011, 13.07.2011, 21.01.2012 and 22.09.2012 and there are acknowledgement for receipt of the above representations except the letter dated 01.06.2011. But no action has been taken by the Assistant Engineer concerned.

9.20 The consumer has submitted another representation on the same subject matter to Assistant Engineer, Manapakkam on 30.12.2013 and to SE/Chennai EDC/ South on

21.01.2014. But no action was taken on the issue raised by the Appellant by any of the officers of the licensee addressed.

9.21 In this regard, I would like to point out that as per regulation 12(3) of the Supply Code, the dispute regarding error in billing etc shall be resolved within the due date for payment if such complaints regarding quantum of commercial transaction are received 3 days prior to the due date for payment and the complaints received during the last 3 days period shall be resolved before next billing along with refunds/adjustments if any. However, the consumer shall not withhold any portion of charges on the plea of incorrectness of the charges. Hence, in this case Respondent has not followed the regulation in resolving the dispute over billing. The consumer has also not followed the regulation.

9.22 As per Regulation 21(1) of the Supply Code whenever there is a dispute between the consumer and the licensee, the supply shall not be cut off, if the person deposits under protest

(a) an amount equal to the sum claimed from him

or

(b) the electricity charges due from him for each month calculated on the basis of average charge for electricity paid by him during the preceding six months. Whichever is less pending disposal of the dispute between him and the licensee. But, the Appellant has not paid any amount as above. Hence, the service is liable for disconnection.

9.23 In the representation dated 13.07.2011, the Appellant has stated that the meter has not crossed 0370, but the reading was noted as 2900. As per the entry in the consumer meter card the final reading is 0139 noted on 23.8.2011. But, consumer informed it is 0370 on 13.7.2011. Therefore , there is some mistake of facts in the above meter readings. The licensee's officer,(viz) the concerned Assistant Engineer could have easily verified the above by taking a check reading in the above service. But, no such action was taken by the AE concerned. It shows that the concerned section officer has not taken action to redress the grievance. The licensee has to look into this and take corrective action to avoid such occurrences in future.

9.24 With regard to non responding to the representation of the consumer, the CGRF has already directed the licensee to pay a sum of Rs.250/- as compensation which is as per regulation 21 of the DSOP.

10. Observation :

In this case, the following are observed :

(i) it is noted that the consumer has made several representation to the Assistant Engineer/Mugalivakkam regarding wrong entry of meter reading. The Assistant Engineer would have arranged for a check reading to verify the version of the consumer. But no action was taken by the section officer concerned.

(ii) As per the licensee's contention, the service was under disconnection from 24.6.2011. But, the licensee's officer has not taken any action to terminate the agreement till APTS inspected the service on 3.12.2014 as the service is under disconnection for more than 6 months [(ie) about 3 ½ years].

(iii) Meter was changed when the service is under disconnection and there is no entry about the meter change in the consumer ledger and there is no records in section office about the meter change.

(iv) The licensee's officers are unable to produce the DC/RC Register, Test Report, meter change register. This shows that there is no proper maintenance of records in the said section office. The Superintending Engineer/Chennai EDC/South is directed to take suitable action and give necessary direction to the officials under his control to avoid such occurrences in future.

11. Conclusion :-

11.1 In view of my findings, it is held that the entry of 2900 as meter reading for the assessment period of 5/2011 entered in SC.No.322-004-637 is wrong.

11.2 As per regulation 5 of the Regulations for CGRF & Electricity Ombudsman, the offences and penalties as detailed under Section 135 to 141 of the Electricity Act 2003 are excluded from the purview of the forum. As the issue in respect of theft energy in the above service connection no. 322-004-637 is coming under section 135 of the Electricity Act 2003, the above is excluded from the purview of the forum. Therefore, the above issue is excluded from the purview of the Electricity Ombudsman also.

11.3 With the above findings, the A.P.No.41 of 2015 is finally disposed by the Electricity Ombudsman. No costs.

(A. Dharmaraj)
Electricity Ombudsman

To

1) Tmt.Kapila,
W/o A. Nithyakumar,
3/139, Ramapuram Main Road,
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2) The Superintending Engineer,
Chennai Electricity Distribution Circle/South,
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110 K V SS Complex, K.K. Nagar,
Chennai - 63.

3) The Chairman,
(Superintending Engineer),
Consumer Grievance Redressal Forum,
Chennai Electricity Distribution Circle/South,
TANGEDCO (formerly TNEB),
110 K V SS Complex, K.K. Nagar,
Chennai - 63.

4) The Chairman & Managing Director,
TANGEDCO,
NPKR Maaligai,
144, Anna Salai,
Chennai – 600 002.

5) The Secretary,
Tamil Nadu Electricity Regulatory Commission,
No.19A, Rukmini Lakshmi pathy Salai,
Egmore,
Chennai – 600 008.

6) The Assistant Director (Computer) - **FOR HOSTING IN THE TNEO WEBSITE PLEASE**
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