

THE ELECTRICITY OMBUDSMAN, UTTARAKHAND

Shri Rakesh Kumar Saini
S/o Late Shri Ilamchand Saini
Village Mooldaspur Urf Majra,
Tehsil Roorkee, Distt. Haridwar
Uttarakhand.

Vs

The Executive Engineer,
Electricity Distribution Division (Urban),
Uttarakhand Power Corporation Ltd.
Civil Line, Roorkee,
Haridwar, Uttarakhand

Representation No. 34/2019

Order

Dated: 30.08.2019

Shri Rakesh Kumar Saini S/o Late Ilam Chand Saini, Village Mooldaspur, a PTW (Private Tube Well) consumer with connection no. SC68900A2712290 has filed this petition being aggrieved by the order dated 25.04.2019 of the Consumer Grievance Redressal Forum, Haridwar zone (hereinafter referred to as Forum) in his complaint no. 30/2019 before the said Forum against the Uttarakhand Power Corporation Ltd. (UPCL) through Executive Engineer, Electricity Distribution Division (Urban), Roorkee (hereinafter referred to as respondent).

2. In his petition he has stated that as he was not satisfied with Forum's order dated 25.04.2019 in his complaint no. 30/2019 because his grievance was still not redressed by the Forum so this appeal is being filed. He has stated that he has taken a connection no. SC68900A2712290 for his tube well for irrigating his agriculture land and garden in his village. The said connection was released on 18.03.2018. Bills for the above connections are being regularly paid. The connection has been given from the transformer installed at the site of his tube well. The supply to his connection is stopped from 20.09.2018. The departmental officers/staff were duly informed repeatedly and it was told to him that there was a fault in the cable which shall be

attended shortly and supply shall be restored. When the complaint was not attended after repeated verbal requests a written complaint was submitted in the office of the respondent on 19.12.2018 but no action was taken. Subsequently written requests were made on 23.01.2019, 12.02.2019 and on toll free no. on 10.01.2019 and 12.01.2019 but the fault was not attended and supply was not restored.

3. Again a written complaint was made to the office of the respondent on 27.03.2019 but with no result. Again complaint was lodged at toll free no. 1912 on 26.02.2019 with complaint no. 22602190223, still no action was taken by the department to attend to the complaint and restore the supply with the result the crop has damaged. The petitioner has made a personal allegation on Shri Anup Saini, Executive Engineer that the said Shri Anup Saini is intentionally not getting the supply restored to cause financial loss to him and mental harassment to him. About 60 bighas of the land is to be irrigated by the said tube well which has become barren for want of irrigation and he has already had a financial loss of Rs. 5,00,000.00. He has further made allegation that this is intentionally being done by Shri Anup Saini, Executive Engineer who has threatened him. He has stated that in his complaint before the Forum he had demanded a compensation of Rs. 5,00,000.00 for the loss accrued to him due to damage of crop but the Forum has only granted compensation of Rs. 19,000.00 for delay in attending the complaint and no other relief as demanded and as also no action against the erring staff has been taken by the Forum so this appeal has been filed.
4. In the grounds of appeal the petitioner has submitted that the damage to his crop has not been assessed and no compensation was given by the Forum, so Forum order is not justified and satisfactory. The SDO has wrongly informed the Forum that complaint was attended on 02.04.2019 and supply was restored, which was false and against facts. On directions of the Forum site inspection was done by the respondent and supply was restored on 05.04.2019 at 07:00 pm. As such no action against the SDO for giving false information to the Forum was ordered by the Forum. He has requested that his appeal be admitted, a compensation of Rs. 5,00,000.00 for the mental and financial damage due to damage of his crops be granted and necessary punitive action against the erring officers and staff be ordered.

5. The Forum after perusal of the records, keeping in view the facts and after hearing arguments from both parties have concluded that complaint for attending the fault and restoration of supply to his tube well were made by the complainant on 29.12.2018, 23.01.2019, 12.02.2019 and 27.03.2019 but the department has failed to attend the complaint and restore the supply within the stipulated period as per UERC (Standard of Performance) Regulations, 2007. The supply to the connection of the complainant remained stopped due to defect in the 11 KV cable feeding to the transformer installed at his site. Further the Forum have stated that as per Schedule III point no. 5 of said regulation the fault in the HT mains had to be got attended to and rectified within 12 hours and in the event of default provision for compensation @ Rs. 200.00 per day for the delay exists in the aforesaid regulation. The department has violated the provisions of the aforesaid regulation in attending to the complaint and restoration of supply to the consumer. The first written complaint of supply failure was made in the office of the respondent on 29.12.2018 and the supply was restored on 05.04.2019 as such a delay of 95 days in attending to the complaint and restoration of supply has been made by the respondent. Therefore the Forum considered it justified to award a compensation for 95 days @ Rs. 200.00 per day amounting to Rs. 19,000.00 and have accordingly ordered to give the said amount of compensation to the complainant in the next bill.
6. The respondent Executive Engineer in his written statement dated 09.07.2019 have admitted that complaint no. 30/2019 was filed by the petitioner before Forum which was decided on 25.04.2019 wherein relief was granted to him. He has denied the allegation that supply was not given to him since 20.09.2018 as also the complaint made by him to the employees. The complaint dated 19.12.2018 regarding fault is not controverted by him. The complaint dated 23.01.2019 is also not controverted but complaint dated 12.02.2019 is not admitted however that dated 27.03.2019 is admitted. He has denied the allegation that he was suffering a loss of crop due to stoppage of electricity supply. The allegations made by the petitioner under para 12 of the petition have been denied saying that such allegations are motivated. He has also denied that the 60 bigha land became barren for want of irrigation due to supply failure and on account of that he has suffered a financial loss of Rs. 5,00,000.00.

7. Allegations made under para 14 of the petition have also been denied being motivated. He has admitted that the supply was restored on 05.04.2019 and compensation for Rs. 19,000.00 granted by the Forum has also been admitted. He has submitted that the petitioner is not entitled to any further relief and his appeal is not maintainable. The respondent has admitted that compensation has been awarded as per UERC regulations and the Forum had no jurisdiction to grant any relief as demanded on account of loss of crop amounting to Rs. 5,00,000.00. In the end he has submitted that the grievance of the petitioner as per his complaint no. 30/2019 has since been redressed by the Forum and he is not entitled to any relief economic or mental as there is no such provision in the regulation hence the representation is not maintainable and liable to be dismissed.
8. Nothing legal or logical submissions other than reiteration of his petition has been made by the petitioner in the rejoinder.
9. Documents available on file have been perused and arguments from both parties have been heard the relevant SOP regulations referred in Forum's order have also been gone through. It is borne out that complaint of supply failure was admittedly made in writing to the respondent on 29.12.2018 and the same was attended to on 05.04.2019. The supply was restored after tightening the HT cable joint, so there is no dispute about the date of first written complaint dated 29.12.2018 and restoration of supply after removing the minor fault i.e. tightening the cable joint on 05.04.2019 as such the respondent took 95 days in attending such a minor fault. The petitioner has made the following requests.
 - i) Compensation for delay in attending the fault and restoration of supply be given from 20.09.2018 (the first complaint made by him to the staff of the respondent) till 05.04.2019 and not from 29.12.2018 (the first written complaint in the office of the respondent till 05.04.2019 as granted by the Forum vide their order dated 25.04.2019.
 - ii) Compensation of Rs. 5,00,000.00 on account of financial and mental loss suffered by him due to damage of his crop in 60 bighas of land and garden which could not be irrigated due to supply failure for such a long period from 20.09.2018 till 05.04.2019.

- iii) Necessary administrative and punitive action against the officers/staff responsible for such a long delay in attending the complaint and restoration of supply.
10. As regards his above requests it is clarified that there is no documentary evidence of his verbal complaint dated 20.09.2018 hence no compensation from this date can be granted, however the compensation granted by the Forum amounting to Rs. 19,000.00 is consistent with the above SOP regulations and the period of delay is admitted by both the parties so it is upheld. Regarding compensation as demanded at sr. no. ii) above it is not within the jurisdiction of the Ombudsman as there is no such provision in any of the UERC regulations. At the time of arguments on 19.08.2019 the counsel for the respondent also objected to this on the grounds that such compensation cannot be demanded from Ombudsman who is not empowered for the same and it can only be demanded from a competent Civil Court, as such this request cannot be considered. As regards his request at sr. no. iii) necessary directions are being given to the respondent authorities in the following paragraphs of this order.
11. The petition is partly allowed. Forum order is upheld.
12. It is established on the basis of documentary evidences, there has admittedly been an inordinate delay of 95 days in attending to such a minor fault and restoration of supply despite repeated requests and reminders to the respondent by the petitioner, this cannot be considered only a carelessness on the part of the concerned line staff as well as supervisory staff but certainly an act of dereliction of duty and necessary action against such staff needs to be taken. The competent authority of the respondent UPCL is directed to identify the officials/staff responsible for such dereliction of duty and necessary punitive/administrative action against them be taken as per departmental rules. Compliance to this part of the order be reported within 60 days of this order. However personal allegations leveled against Shri Anup Saini, Executive Engineer by the petitioner under point no. 12 and 14 of his petition, point no. 8 of his rejoinder and further at the time of hearing on 19.08.2019 are not sustainable for want of any documentary evidence and therefore the same are overruled.

Dated: 30.08.2019

(Subhash Kumar)
Ombudsman

