

Before the Hon'ble Ombudsman
U.E.R.C., 24 Vasant Vihar, Phase-II,
Dehradun-248006
Phone -(0135) 2762120

Case: Representation No. 3/2005 dated 1.3.2005

Complainant.

Respondents.

Sri Vijay Wadhwa,
47 Haridwar Road,
Dehradun.

- Vs. 1. Chairman Consumers' Grievances
Redressal Forum,
Garhwal Zone,
Dehradun
2. Uttaranchal Power Corpn.Ltd.,
through its C.M.D.
3. Executive Engineer,
Urban Electricity Distribution Division,(South),
18-E.C.Road, Dehra Dun.

Counsel for the Complainant.

Counsel for the Respondents.

Represented by the Complainant
himself

Sri S. M. Jain, Advocate,
Reg. No. 4719/62 Ex. D.G.C. (Civil)
Dehra Dun.

In the matter of:

Representation against the dismissal of his complaint made before the Learned Consumers' Grievances Redressal Forum, Garhwal Zone, Dehra Dun vide its Decision dated 28.12.2004, which held that the entire matter filed by the Complainant was time barred and not maintain able and hence was dismissed on that account.

The Complainant has now filed the representation on the grounds that the decision was given in his absence without calling him before the learned Forum and that the case is not barred by time having issued him a wrong bill for the period ending 31.5.2005 for which he has now filed the present representation.

Quorum

Sri J.C.Pant	...	Ombudsman.
Date of Award	...	15.6.2005

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AWARD

Above representation was received in this office on 1.3.2005 and accordingly has been registered as Representation No. 3/2005 of dated 1.3.2005. Copy of the representation was sent to the Licensee on 10.3.2005 for submission of a point-wise reply along-with the month-wise bill details from the time of the Complainant's claim of having deposited Rs. 23,500.00 to be submitted by the date of the first hearing, scheduled for 18.3.2005.

On 18.3.2005 both parties were present. The Licensee was represented by their Learned Counsel Sri S. M. Jain, Advocate while Sri Vijay Wadhera represented his own case and was himself present. Sri S.M.Jain made his arguments while Sri Wadhera requested additional time to argue his case. Accordingly 6.4.2005 was fixed to allow Sri Wadhera to present his arguments.

On 6.4.2005 Sri Wadhera was absent and had sought more time. Accordingly 20.4.2005 was fixed for this.

On 20.4.2005 Sri Wadhera submitted written arguments. To this the Learned Counsel for the Licensee Sri S.M.Jain observed, after he had read it, that it contained a repetition of the previous points. Sri Jain wanted to know when Sri Wadhera deposited the Rs. 23,500.00 as the written statement does not contain this information. The Complainant did not get any receipt for payment of this amount. The Complainant was asked to produce evidence of having deposited this amount. The next date was fixed for 4.5.2005.

On 4.5.2005 the Complainant was not present. The written reply from the Licensee too was awaited. The next date was fixed for 11. 5.2005.

On 11.5.2005 the Complainant Sri Wadhera was present. It was observed that he had not yet made the payment of the outstanding bill. The Licensee's written reply was received and copy of it was given to the Complainant.

Accordingly 25.5.2005 was fixed for hearing arguments.

On 25.5.2005 Learned Counsel of the Licensee was present and the Complainant was also present but being unwell said he was not ready for arguments on that day. Sri Wadhera however assured that he will make the payment of pending bill by 15th June and was directed to produce the receipt of having made this payment on Wednesday the 15th June. Accordingly 15th June, 2005 was fixed for the Award.

Facts and Circumstances of the case.

1. That a connection No. 016082 in the name of Sri Ajay Wadhera S/O Chandi Prasad,47-Haridwar Road exists in the Licensee's record

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2. The complaint filed in the Forum, and the Representation before the Ombudsman has been filed by Sri Vijay Wadhera.
3. That the Meter sealing certificate for the change of meter at the above premises has apparently been acknowledged by Sri Vijay wadhera.
4. The Complainant has in his representation alleged harassment in the period around 28.2.96 which made him call upon the UPSEB Head Quarters, Lucknow where he met the then Member Distribution.
5. The Member (D) acknowledged this in his Fax No. 268/PSMD/96 dated 27.2.96 copy of which has been filed in this case.
6. The said harassment was about a 6 Digits bill issued to the Complainant, whereas the Meter was a 5 Digits meter. This last stands confirmed when this meter was changed on 20.9.2003.
7. The exorbitant 6 Digit Bill was withdrawn but the fresh bill issued was of Rs. 48,865.00 which was billed on Commercial Tariff whereas it should have been billed on Domestic Tariff. The connection was also disconnected.
8. The above seemed to raise the ire of the Member(D) who in his Fax directed the Chief Zonal Engineer, Dehra Dun that the harassment be stopped immediately and the guilty be punished.
9. The Chief Zonal Engineer in a separate letter issued to the Superintending Engineer No. 534 dated 28.2.96 expressed concern over harassment and directed suitable disciplinary action against the guilty.
10. That ultimately, this consumer said he had deposited Rs. 23,500.00. This was probably done between the period 28.2.96 and 27.2.97 as could be made out from Chief Engineer, Garhwal Zone Letter No. 536/CE(D)/T/C-4(i) dated 27.2.97.
11. The present case rests upon the bill for the period 30.11.2003 to 31.5.2004 which was raised for the amount of Rs. 17,417.00 whereas just prior to it the bill for the period 19.9.2003 to 30.11.2003 was for (-) Rs. 1230.00 i.e. Licensee owed the consumer the above amount.
12. That upon complaining about the Rs. 17,417.00 bill it was revised to the amount of Rs.14,842.00 upon which the Complainant has raised this claim that since an excess amount was got deposited from him in the past as also he was made to run to Lucknow to get redress these expenditures imposed on him along with interest makes him entitled to raise these as a counter claim to be set off against the present bill of Rs.14,842.00. This is the summing up of the present Representation.

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Examination of the Case.

1. The learned Forum had declared the case time-barred. The Complaint to the Forum was acknowledged on 20.12.2004 and dismissed on 28.12.2004. Whereas the complaint centers around the bill-period ending 31.5.2004 which was in the first instance issued erroneously - that being the case it is a current case of wrong billing to be examined accordingly and is thus not barred by time though superficially the complaint may have appeared so.
2. The learned Forum appears to have misplaced its attention on the seeming effrontery of the Complaint to run up a counter claim against the Licensee when it raised a wrong bill of Rs. 17,417.00 that it later revised to Rs. 14,842.00, by even casting an aspersion on the Complainant.
3. Much time and energy could have been saved if the Licensee had submitted its point-wise reply to this Representation asked for as early as 10.3.2005 to be submitted along with the month wise billing details since the time the Complainant said he had deposited Rs. 23,500.00, but the reply was submitted only on 11.5.2005 and that too fell far short of replying to the points and facing the facts.
4. Instead of facing up to the facts of wrong billing and addressing itself to correcting it the Licensee has sought to question the Complainant's bona-fides as a consumer, devoting the greater part of its belated reply to this peripheral matter of name of the consumer and the Complainant's name.
5. The Licensee is aware that the then Chief Engineer, Garhwal Zone has raised the matter of the connection being in the name of Sri Ajay Wadhwa while the Complainant is Sri Vijay Wadhwa, vide his letter No. 536/CE(D)/T/C-4(1) dated 27.2.97 so there has been time enough since then to settle this matter of mutation.
6. There is yet another instance of a superficial dealing with the case when the Licensee says "he has not given the connection number". It is there all along as 016082 and the Member Distribution acknowledges this. It is of course open to the consumer to get his bill corrected but it is not open to the Licensee to keep on issuing wrong bills. It has certainly not been given a license to do that as is made out in the Licensee's belated reply that appears to border on frivolity. There is more of that but time and space preclude addressing these.
7. Now the matter is of whether Rs. 23,500.00 has been deposited or not and if so when? This last could have been verified around the period of 28.2.96 to 27.2.97 as per C.E. Garhwal Zone letter No. 536 dated 27.2.97. In any case a substantial amount had been got deposited by the Licensee, so much so that a negative bill i.e. of (-) Rs. 7,301.00 was issued as late as 5/99. This much is agreed to by the Licensee as per their reply of 11.5.2005. And again a negative bill i.e. for (-) Rs. 1,230.00 was issued for the period 19.9.2003 to 30.11.2003. That being the case why is it such a problem for the Licensee to verify from the ledger how much the Complainant deposited around the time his connection was cut i.e. 28.2.96? The Licensee appears disinclined to uncover the details of this transaction.

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8. This amount of Rs. 23,500.00 or some such amount came to be deposited after it required the Member (D)'s and even the Chairman U. P. S. E. B's intervention to get the Rs. 48,865.00 bill corrected which had itself been earlier allegedly corrected from an even more exorbitant 6 Digits meter reading bill said to be of Rs. 3.20 Lac! It thus appears to be clear that there was a grudging reluctance to correct the 6 Digits reading bill, when the so called "corrected bill" was raised for Rs. 48,865.00 on the Commercial Tariff instead of the Domestic Tariff.
9. How did Rs. 23,500.00 come to be got deposited finally, or some such figure has not been shown as per any record by either the Complainant or the Licensee but as said earlier the bill for the period 19.2.99 to 24.4.99 shows a minus balance i.e. of (-) Rs. 7,301.00 and the bill for the period 19.9.2003 to 30.11.2003 (subsequently corrected) showed a negative balance i.e. of (-) Rs. 1,230.00.
10. Further the above bill (19.9.2003 to 30.11.2003) shows the final billed amount as (-) Rs.1,230.00 i.e. the amount existing in credit with the Licensee of the Complainant. This covered the readings shown in the bill as 12580-12501 = 79 units for two months.
11. This leads to the conclusion as will be proved further that the amount got deposited by the Licensee in excess subsequent to the harassment of February 1996 was being adjusted by preparing the bills on the basis of assumed readings and not factual readings.
12. This is proved by the sealing certificate report of the change of meter on 20.9.2003 which shows the reading on the existing meter as 16,874, while the bill raised for the period 19.9.2003 to 30.11.2003 was only up to 12580 units!
13. This is astonishing that such a palpable error on the part of the Licensee should be glossed over both by the Forum and the Licensee especially so in its present reply of 11.5.2005.
14. Thus it is observed that against the cost of 79 units @ Rs 2.10/unit which comes out to Rs. 165.90 an amount of Rs. 254.00 has been charged by way of minimum charges. If the actual readings were taken these would have been billed within the ambit of the minimum charges and the difference of Rs. 88.00 would have come as a relief to the Complainant. Now he is being penalized on those un-read units of consumption which he is having to pay now on the basis of these, as accumulated readings.
15. Conversely it can also be observed that while the bill up to 11/2003 was raised up to a reading of 12580 units how come the reading in the existing meter was shown as 16874 units at the time of its replacement on 20.9.2003 with an Electronic Meter? However the Sealing Certificate is more to be relied upon and it is beyond reasonable doubt that the consumer (Complainant) was being issued bills on basis of fictitious readings.

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16. In absence of month-wise billing statement which the Licensee has evaded to submit the proper calculations cannot be made/ascertained over this past period for which the complainant has been deprived of the benefit from being billed on the basis of actual readings (as made out in Point 14).

17. Even then for the sake of our knowledge the Complainant has been deprived of a benefit of approximately Rs. 4342.80 as under:-

Difference of Rs. 88.00 is the cost of 44 units for 2 months i.e. 22 units per Month. The total units in the 94 months period arrives at 2068 units, the cost of which @ Rs. 2.10 per units comes to Rs. 4,342.80 due to which the amount of current bill of Rs. 14,872.00 is liable to be reduced to Rs. 10,529.20 only.

18. Besides this the Complainant is entitled to get a relief by way of interest on the amount that was got deposited in excess by the Licensee, which is Rs. 23,500.00 as per statement of the Complainant, and this amount stands reasonably established by the fact shown in the case.

19. The amount of Rs.23,500.00 i.e. in 94 months, gives an average monthly amount so adjusted as Rs. 250.00 only.

This works out as under:-

Interest @, 10% per annum against the surcharge for late payment being charged by the Licensee @ 1.5% per month or 18% per annum.

$$\frac{N \times (N+1)}{2 \times 12 \times 100} \times \text{amount of installment} \times 10$$

$$\frac{94 \times 95 \times 250 \times 10}{2 \times 12 \times 100} = \text{Rs. } 9,302.00$$

20. From the above it stands out that against the persistent fictitious billing of the Licensee and its obduracy to improve matters even for a sensitive individual the Complainant has suffered a loss to the tune of Rs. 4,342.80 + Rs. 9,302.00 = Rs. 13,644.80, say Rs. 13,600.00 only.

21. However the Licensee's current bill that was submitted in this case (duly corrected for the period 30.11.2003 to 31.5.2004) amounting to Rs. 14,842.00 only has to be first deposited by the Complainant if not already done as was directed during the course of the proceedings. The relief granted as above to the Complainant shall however be adjusted in the course of future bills by the Licensee.

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22. This case has gone beyond the ninety days, which were over on the 29th May, 05. The delay has occurred on account of extensions due to ill health of the Complainant and also due to the Licensee's evasiveness in not putting-up the required information. The latter delayed its reply, such as it was to the 11th of May. Non submission of point-wise replies on the appointed dates henceforth shall constitute a serious breach of the Regulations and the Provisions of the Act.

AWARD

Having diligently and carefully considered all the facts and circumstances of the Complainant's representation against the decision of the learned Consumers' Grievances Redressal Forum, Garhwal Zone and after giving due hearings to both parties, and having thus examined all the facts as in the preceding paragraphs, I come to the conclusion firstly that the matter is not time barred as it concerns connected facts pertaining to a running connection with its ultimate focus resting in the final bill of the period 30.11.2003 to 31.5.2004 that has been proved wrong and that the learned Forum has failed to consider this; - the basic issue of persistent wrong billing. That being the central issue of this representation it was observed that the Licensee has a history of persistently indulging in wrong billing, in this case right from the matter of the 6 Digits reading bill, thereafter to the so called corrected bill issued for the Commercial Tariff, which though occurred in the time of the erstwhile UPSEB but still the present Licensee has only maintained this obduracy for wrong billing or fictitious billing, as is shown in the bill for the period 19.9.2003 to 30.11.2003 in which the reading billed in for the period ending 30.11.2003 is clearly concocted (the Licensee having changed the meter on 20.9.2003 as proved by the meter sealing certificate dated 20.9.2003). The Licensee again issued a wrong bill for the period 31.3.2004 to 31.5.2005 which was again seemingly corrected.

And in between it defaulted by not issuing regular and actual reading based bills, which again imposed a loss to the Complainant as shown in the examination of the facts of the case. The Licensee has not just persisted brazenly to flout its basic obligation to issue correct and timely bills, it has also found nothing wrong in doing that, citing provisions that the consumer has only to seek relief by getting the patently wrong bills corrected! That remedy is there only for the rare occasion for a genuine error and can not be cited as an open license to persist with wrong bills and a defective system of working. These facts thus make it a fit case to give relief to the Complainant to the extent that he was made to deposit an excessive amount in the past, which came to be adjusted right till 31.5.2004 and this amount is thus accepted to have been Rs. 23,500.00. That being the case a reasonable interest much less than what is presently charged by the Licensee as late payment surcharge is awarded to the Complainant amounting to Rs. 9,302.00 along-with a further relief of Rs. 4,342.80 that is given because of the fictitious billing. However the Complainant is hereby directed to first deposit the Licensee's current bill submitted in this case (for the period 30.11.2003 to 31.5.2004) amounting to Rs. 14,842.00 in full as per directions given to him during the proceedings if not already done. It is further directed that the relief granted as above to the Complainant amounting to Rs. 13,600.00 (Rs. Thirteen Thousand six Hundred Only) shall be adjusted by the Licensee in the course of future bills that are to be issued by it.

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The order of the Learned Forum is thus declared void and the Licensee is therefore directed to get the full amount of the bill for the period 30.11.2003 to 31.5.2004 that was corrected by them to the amount of Rs. 14,842.00, deposited by the Complainant immediately and thereafter it shall adjust the relief granted as above in the Complainant's future bills. The compliance is to be reported within 15 days from the date of issue of this Award.

Dated 15.6.2005

(J.C.PANT)
OMBUDSMAN

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