

## THE ELECTRICITY OMBUDSMAN, UTTARAKHAND

Prasad Vihar Welfare Maintenance Association  
Army Welfare Housing Organization,  
Village Shikarpur, P.O. Landora,  
Roorkee, Distt. Haridwar Uttarakhand

Vs

Executive Engineer,  
Electricity Distribution Division (Rural),  
Uttarakhand Power Corporation Ltd.  
Civil Lines, Roorkee, Distt. Haridwar, Uttarakhand

Representation No. 05/2018

### Order

**Date: - 17.04.2018**

The petitioner, Prasad Vihar Welfare Maintenance Association, Army Welfare Housing Organization has filed this representation against the order dated 30.12.2017 of Consumer Grievance Redressal Forum, Haridwar zone (hereinafter referred to as Forum) in complaint no. 76/2017.

2. Petitioner has filed a copy of the registration certificate under the Societies Registration Act, of the Prasad Vihar Welfare Maintenance Association, as also the letter from the Defense Minister dated 19.12.2006 addressed to all Chief Ministers regarding setting up of a Grievance Redressal Mechanism for grievance redressal of service personnel and their families. Petitioner's case is that they have been paying all their bills in time, and never have any arrears been shown in their bills. (The President of the Association had written to the Executive Engineer, Rural Distribution Division, Roorkee on 26.05.2017 regarding the connection no. RD1L165049962 RTS-1 and requested since each allotted family is taking its own individual connection, the AWHO has required them to reduce the load from 40 KW to 8 KW.) Only 10-11 families have built their house and are staying in this colony and the connection is used to supply water for domestic use of these families. The bill is paid by these families via the AWHO to UPCL. The SDO Shri Om Pal Singh conducted an inspection of petitioner's premises on 30.01.2017, checking report enclosed. Petitioner has alleged violation of provisions of section 126 in the assessment drawn

up as a result of the inspection dated 30.01.2017. They have further maintained that this bill is not sustainable as per provisions of section 56 (2) of the Electricity Act, 2003. Accordingly, petitioner has requested that the amended bill of Rs. 4,25,165.07 which has been given to the Association as a result of the decision of the Forum in complaint no. 76/2017 may be set aside. A bill dated 06.01.2017 as per RTS – 1 Other domestic Load above 4 KW for Rs. 1,273.00 was given by the respondent to Army Welfare Housing Organization, Roorkee which was duly paid and in which no arrears were shown. Petitioner have requested that the clerical or calculation mistake may be remedied and for connection no. RD1L165049962 the load of 40 KW may be reduced to 10 KW and bill may be issued in favour of Prasad Vihar Welfare Maintenance Society, Army Welfare Housing Society, Roorkee, Shikarpur Landora.

3. Forum in their order dated 30.12.2017, have partially allowed the complaint and have set aside the bills issued in respect of both connections. Further, Forum have directed that a fresh calculation as per MF be drawn up on the basis of RTS – 1 rate schedule and bill be drawn up without any LPS. They further directed that compliance of these orders may be reported within 30 days. Forum have also rejected the petitioner's claim of application of section 56 (2) in the above matter. However, they have held that domestic connection for mixed load under RTS -1 can be used for supply of drinking water to the colony as per 14 (4) of general conditions of the Tariff order and thus the opposite party have wrongly applied RTS -6 rate schedule and have thus ordered to revise the bills under RTS -1 rate schedule at applicable MF without any LPS.
4. The respondent in their written statement before Ombudsman have contested the petitioner's claim that only 10-11 families reside in the colony, while it is true that the residents of the colony pool their mutual contribution in AWHO to pay the bills. They have also not admitted that the connection was released under tariff RTS-1 after full verification by the officers of the department. Respondent have also maintained that since Forum have already canceled the bills, there remains no issue to be considered by the Commission (the Ombudsman). They have complied with the orders of the Forum and since the amount claimed in the impugned bills has never been claimed before, there is no question of application of section 56 (2) of the Electricity Act, 2003. As far as the reduction of load is concerned, respondent have argued that the

request can be considered after requisite formalities have been fulfilled. Accordingly, respondent have maintained that the petitioner is not entitled for any relief and the representation is liable to be dismissed with costs.

5. Petitioner has also filed a rejoinder affidavit where they have contested the statement of the respondent that they have not issued connection under RTS -1 after full verification and suggested that this amounts to dereliction of duty. Further, petitioner has also brought to the notice that respondent changed the tariff from RTS -1 (other domestic load above 4 KW) to RTS -6 (Public water works) without any prior notice much less a request from the appellant which they have claimed is a great violation of the fundamental rights of the families who have not been offered an opportunity of hearing and have had a huge financial burden placed on them against the principles of natural justice. Petitioner have also cited case law of the Hon'ble Electricity Ombudsman of Maharashtra in representation no 60 of 2009 whereby it has been held that "Distribution licensee is not entitled to recover past arrears raised by way of supplementary bills for more than 2 years preceding the date of demand when the consumer have already paid the bill for the corresponding period.
6. Both parties have been heard and the record available have been carefully examined. It is clear on the basis of the report of the SDO dated 30.01.2017, that the MF of 15 has not been applied in the billing, from the date of change of meter on 11.09.2009 vide sealing no. 28/116. It is also clear that respondent switched to RTS 6 rate schedule for billing unilaterally and without reference to consumer and in violation of agreement entered into with consumer at time of release of connection. It is regrettable that 8 years have been allowed to lapse before such a mistake has been reported and action taken thereon. It places a sudden burden on the petitioner consumer whereas the bills could have been paid at the normal pace over the 9 year period. However, it is clear that Forum in their order have allowed the relief admissible to the petitioner in terms of rates applicable as well as in terms of non applicability of LPS and the final bill of Rs. 4,25,165.07 for the period 08.11.2009 to 08.09.2017 sent to the petitioner vide letter no. 216 dated 18.01.2018 is payable by the petitioner both because the energy billed has already been consumed by the petitioner and no relief in terms of limitation is applicable in the cases of wrong application of MF as decided by the Hon'ble High Court of Bombay and Delhi as

quoted in cases 21/2013, 37/2013, 38/2013 all of 04.04.2014 and 02/2016 of 29.07.2016 decided by this office in the past. In all above cases of non-application of correct MF for a period longer than two years and where supplementary bills were raised to recover the cost of energy actually consumed but escaped billing due to non application of correct MF as referred in the judgment of Hon'ble High Court Delhi dated 19.04.2011 in W.P (c) 8647/2007, the Hon'ble Supreme Court in Swastic Industries Vs Maharashtra S.E.B (1997) 9SCC 465 has ruled that *"even where the electricity distribution company had woken up after nine years to make the claim, the electricity dues have to be paid."* The case law submitted by the petitioner as referred in para 5 above (order dated 01.07.2009 in case no. 60 of 2009 of Hon'ble Electricity Ombudsman, Maharashtra), does not support the petitioner's claim that limitation under section 56 (2) of the Electricity Act, 2003 is applicable in his case and he cannot be charged for a period beyond two years, being in contravention of the judgments quoted above. Thus it would be appropriate to go by the judgments of Hon'ble High Courts and Hon'ble Supreme Court as quoted above, being superior courts rather than to be governed by the aforesaid order of Hon'ble Ombudsman, Maharashtra. Accordingly Forum order is upheld and the petition is disallowed

7. The petitioner's request contained in sl. no. 3&4 of his letter no. 100/RWA/AWHO/Rkre/2017 dated 26.05.2017, referred in para 6 and 7 of the representation regarding sending the bills for the period ending 31.05.2017 to AWHO, Roorkee C/o M.D. AWHO, Rajaji Marg, New Delhi and that from 01.06.2017 and onwards to Residential Welfare Association, Prasad Vihar, Phase I and Phase II, Shikarpur, AWHO Roorkee, stands acceded to in terms of Respondent's letter no. 210 dated 18.01.2018 addressed to Chairman, AWHO, South Hutments, Kashmir House, Rajaji Marg, New Delhi and letter no. 216 dated 18.01.2018 addressed to petitioner respectively. In view of above communications by the respondent, the petitioner's request stands addressed.
8. While the petitioner is not entitled to any relief as held above since energy billed has been consumed, however, the fact that respondent company were denied due revenue for nine years due to lax approach of employees deserves special mention. Even now had it not been for petitioner for seeking to reduce his sanctioned load and therefore change the meter. The fact of appropriate MF not being applied for billing would still

not be in the knowledge of respondent. It is therefore felt appropriate to bring this to the knowledge of the senior management with the expectation that appropriate action against concerned employees will be taken to prevent harassment of consumer and loss to respondent company in future. Action taken may be intimated to Ombudsman within 30 days of receipt of this order.

Dated: 17.04.2018

(Vibha Puri Das)  
Ombudsman