

THE ELECTRICITY OMBUDSMAN, UTTARAKHAND

Shri Sanjay Jain,
S/o Late Shri Hukum Chand Jain
BHEL Tiraha, Bhadrabad,
Distt. Haridwar, Uttarakhand

Vs

Executive Engineer,
Electricity Distrubiton Division,
Uttarakhand Power Corporation Ltd.
Jwalapur, Haridwar, Uttarakhand

Representation No. 32/2017

Order

The petitioner Shri Sanjay Jain /So Shri Hukum Chand Jain R/o BHEL Tiraha, Bhadrabad, Tehsil & Distt. Haridwar has filed this petition against the order dated 18.09.2017 of the Consumer Grievance Redressal Forum, Haridwar zone (hereinafter referred to as Forum). Petitioner has claimed that the order of the Forum is contrary to law, is prejudiced, and has not addressed the issue with requisite seriousness and honesty. Opposite party UPCL, did not place any evidence against the issues raised by the petitioner before the Forum and therefore his claim made on oath should have been accepted. Petitioner has therefore requested that the Forum order may be set aside and his petition allowed.

2. Forum in their order dated 18.09.2017 have explained that connection no. JW2/1222/010741 is of Shri Sanjay Jain S/o Shri Hukum Chand Jain as per the letter dated 16.08.2017 of SDO. However, because of a clerical mistake, the name of his father has been wrongly recorded as Shri Hukum Singh rather than Shri Hukum Chand Jain. Opposite party have contended that an outstanding of Rs. 1,18,482.00 was pending against this connection and hence permanent disconnection was made out. After finalizing PD the total balance amount of Rs. 49,292.00 was found pending for recovery and accordingly recovery notice u/s 5 was issued. Department has further explained that being a 100% government owned company UPCL are fully authorized

to issue recovery u/s 5. Forum directed that the PD report, the order and notesheet and the OM issued by the Executive Engineer after the PD, be filed. This was filed by the OP and a copy made available to the petitioner. In petitioner's rejoinder dated 05.09.2017 petitioner again rejected the averments of OP and repeated that department is attempting to recover some other consumer's dues from him while he has never used the said connection. While the concerned SDO attempted before the Forum to justify the mistake in the name of the father by saying that even in the connection as per which he is admittedly regularly making payments, his father's name has been mentioned as Jukam Chand. Petitioner has never raised an issue about this. Forum have further in their analysis while recording that petitioner has claimed that the meter removed from the said disputed premises belonged to the 1978 series at which time petitioner was a minor, admitted that it has never been made clear whether this connection had been issued in the name of petitioner. Forum in their order have also posed a rhetorical question as to why would the department wish to recover an unconnected person's dues from somebody else. Forum have further maintained that UPCL is authorized to issue recovery notice as per the provisions of UP Government Electricity Undertakings Dues Recovery Act, 1958 as adopted in the state of Uttarakhand. Accordingly they have disallowed the complaint.

3. The respondent in their written statement have reiterated that they are not in agreement with the claims made by the petitioner regarding the Forum order. They have further reiterated that dues of connection no. JW2/1222/010741 pertain to Shri Sanjay Jain S/o Shri Hukum Chand Jain. Due to clerical mistake the father's name has been recorded as Shri Hukum Singh rather than Shri Hukum Chand Jain. By way of evidence they have merely quoted that the other connection of Shri Sanjay Kumar Jain namely connection no. JW2/1222/081017 also for which the consumer history has been submitted also had a clerical mistake in the father's name where it has been recorded as Shri Jukam Chand. However petitioner has not demurred from making payments against the said connection.
4. Petitioner in his rejoinder has raised two queries i) has the said connection been used by the petitioner. ii) Have any documents been produced regarding use of the said connection by the petitioner where his signatures are available. Respondent have quoted oral testimony of local residents but not given any documentary proof. However bills issued by the respondents (Billing history submitted by the respondents

is the proof that bills were being issued) are the exclusive documentary evidence that the connection was being used till its disconnection and such bills do not require signature of the consumer (the petitioner).

5. Both parties have been heard and record available on file of the Forum as well as that placed before the Ombudsman, has been perused. It may be stated that it is not material as to who is using the connection but the material point is, the name on which the connection stands and who is legally bound to discharge dues. In this matter, while Forum have also left the point open that it is not clarified whether connection was issued in the name of petitioner, however, Forum have concluded that the wrong name of the father of the petitioner is a clerical error in connection no. JW2/1222/010741 as well as in the other connection no. JW2/1222/081017 for which petitioner has been regularly paying his bills. As per consumer billing history of connection no. JW2/1222/010741 from the billing month of 06/2008 (Bill dated 23.06.2008) to billing month of 10/2016 (bill date 23.10.2016), the outstanding dues were accumulated from Rs. 39,439.00 for month of 06/2008 to Rs. 1,18,487.00 at 10/2016 which after finalization of PD, reduced to Rs. 49,292.00, due to waiver of fictitious dues of Rs. 69,195.00, accumulated after temporary disconnection on 25.08.2009, as per P.D. O.M. dated 29.02.2017. Thus RC for the actual dues amounting to Rs. 49,292.00 was issued against the connection no. JW2/1222/010741, existing in the name of Shri Sanjay Jain. Although the petitioner could not adduce any un-ambiguous documentary evidence to show that the connection does not pertain to him, but it appears that the connection was released on 15th January 1978 in his name (As per billing history). The dues ending 06/2008, shown as Rs. 39,439.00 in the billing history, could not be the total billed amount from January 1978 to 06/2008 (30 years) for a 2 KW connection, but this could only be the arrears amount ending 06/2008 i.e. difference of the billing amount, less the payments made during the said period of 30 years. The connection was disconnected temporarily on 25.08.2009 on nonpayment of dues which was never restored thereafter and hence was permanently disconnected on 08.02.2017, after inordinate delay of about 7 and half years.
6. In view of the aforesaid scenario, identity of Shri Sanjay Jain as the holder of the aforesaid connection seems clear even though no further documentary evidence has been adduced by either party. The mention of father's name of the petitioner as Shri Hukum Singh instead of Shri Hukum Chand Jain, cannot be a basis to hold that

connection no. JW2/1222/010741 does not pertain to Shri Sanjay Jain. No benefit on this ground can be given to him. There appears no reason to interfere with the Forum's order and the same is therefore upheld. The petition is dismissed.

Dated: 05.02.2018

(Vibha Puri Das)
Ombudsman