

THE ELECTRICITY OMBUDSMAN, UTTARAKHAND

Mohd Sahid
Prop, M/s Malik Industries,
59 Raipur Bhagwanpur
Roorkee, Haridwar Uttarakhand

Vs

Executive Engineer,
Electricity Distribution Division
Uttarakhand Power Corporation Ltd.
Bhagwanpur, Roorkee, Haridwar Uttarakhand

Representation No. 48/2019

Order

Date: - 31.10.2019

Being aggrieved with Consumer Grievance Redressal Forum, Haridwar zone (hereinafter referred to as Forum) order dated 30.08.2019 in his complaint no. 89/2019 before the said Forum against UPCL through Executive Engineer, EDD, Bhagwanpur, Mohd. Sahid Prop. M/s Malik Industries, 59, Raipur Bhagwanpur has preferred this petition/representation.

2. The petitioner has submitted that the Forum have passed order against law and facts of the case and without examining the case in depth, which is an error of law and hence the order is liable for dismissal. He has submitted that he has a connection no. KN010102 for 25 KW for industrial purpose at 59, Raipur, Bhagwanpur under the name M/s Malik Industries. After depositing the balance dues Rs. 18.00 vide receipt no. 4728861 he has applied for permanent disconnection on 19.04.2018 when Rs. 200.00 were deposited as disconnection fee and accordingly staff of the respondent disconnected his connection and removed the meter on 27.04.2018 whereafter the said connection was never used.

After about 1 year of permanent disconnection and removal of meter he applied for a 5 KW connection at the said premises but the respondent informed that a sum of Rs. 1,05,056.00 is outstanding against his aforesaid industrial connection. He approached

the respondent with all the documents regarding permanent disconnection with the request that the demand of outstanding dues is due to a mistake on the part of the department but the respondent did not do anything.

Consequent to that a complaint was filed with the Forum for setting aside the aforesaid outstanding dues Rs. 1,05,056.00 and for directing the respondent to release new connection as applied for.

The Forum did not consider the documents and facts of the case and passed dismissal order which is bad in the eyes of law and against facts of the case. He has averred that in response to request for permanent disconnection on 19.04.2018 when disconnection fee Rs. 200.00 was deposited and outstanding dues Rs. 18.00 were cleared with receipt no. 47288612. The staff of the respondent disconnected the connection and removed meter on 27.04.2018, he didn't use any electricity thereafter neither he could have done so because no electric connection was available at his premises after the said date of meter removal.

It is further stated that in their observations the Forum did not consider the submissions made by him. After removal of meter on 27.04.2018 the respondent issued fake bills which is a matter of enquiry, which did not considered conducted by the Forum. The documents submitted by the respondent were all fabricated. In response to his request dated 19.04.2018 for permanent disconnection, the staff of the respondent removed meter on 27.04.2018 in compliance to respondent Executive Engineer's letter no. 1159 dated 23.04.2018 which was not considered by the Forum so their order is liable for dismissal. A fabricated case has thus been prepared and submitted before Forum by the respondent's for causing loss to him, The bills issued by the respondent after removal of meter were all fabricated. The department did not take any action for withdrawal of such bills and the Forum also dismissed his complaint without considering the facts. He has requested that in view of the aforesaid facts of the case and shortcomings and errors committed by the Forum in passing order dated 30.08.2019 the same be quashed, and respondent be directed to release new 5 KW connection as already applied for.

3. The Forum having examined the case have observed that although he had applied for permanent disconnection on 19.04.2018 but billing history and MRI report suggest

that the consumption was regularly being recorded till 05.04.2019 when meter reading was 35015 KWh which matches the MRI reading, which suggest that disconnection was not done on 19.04.2018 and hence outstanding dues Rs. 1,05,056.00 is the legitimate demand of the respondent and is payable by the petitioner and since dues on the premises are outstanding so new 5 KW connection as applied for can also not be released to the petitioner which can only be given after depositing the outstanding dues and thus the Forum have dismissed the complaint.

- 4 The respondent have submitted written statement dated 14.10.2019. They have denied removal of meter on 27.04.2018 by their staff. The allegation that the petitioner did not utilize connection after 27.04.2018 is wrong. In fact while it is true that he requested for permanent disconnection on 19.04.2018 after depositing fee but the connection could not be disconnected for about 1 year thereafter for which a show cause notice was issued to SDO and AE on 04.09.2019. The meter was removed on 27.04.2019 (as per sealing certificate no. 37/57 dated 31.05.2019 which has been submitted by the respondent with WS the meter was removed on 31.05.2019). A PD report was submitted by SDO showing temporary disconnection on 20.04.2019 and permanent disconnection on 31.05.2019. PD OM no. 2277 dated 26.06.2019 was accordingly issued showing outstanding dues Rs. 1,05,056.00 till the date of temporary disconnection as 20.04.2019. The respondent has substantiated his submissions with a copy of the above referred documents as also billing history and MRI report which all shows that metered consumption has been recorded till 05.04.2019 when reading as per billing history was 35015 KWh and metered consumption bills were regularly issued. The meter reading on 31.05.2019 as per sealing certificate was 35581 KWh on 31.05.2019.
- 5 Based on the documentary evidences, as referred above, the respondents have submitted that the petitioner's allegations that his connection was disconnected on 27.04.2018 and the bills were issued thereafter, according to which, a sum of Rs. 1,05,056.00 are outstanding against him as per metered consumption bills issued till May 2019, are wrong and baseless. They have also denied petitioner's allegation that he was in continuous touch with respondent regarding the matters concerning permanent disconnection and issue of bills till May 2019. The respondent have submitted that the petitioner continued to enjoy electricity till disconnection of his

supply on 20.04.2019 temporarily without paying the bills being sent to him regularly. Due to nonpayment of the outstanding dues the connection was temporarily disconnected on 20.04.2019 and permanent disconnection was done on 31.05.2019 when meter was also removed. The respondent have therefore denied all the allegations made by the petitioner. They have further stated that he applied for a fresh 5 KW connection just after the date of temporary disconnection on 20.04.2019 and as dues were outstanding on the premises a 5 KW connection applied for could not be sanctioned to him as per relevant regulations till the outstanding dues are cleared.

For the reasons stated in written statement the respondent have requested that the representation is liable to be dismissed with costs.

6 The petitioner has submitted a rejoinder on 18.10.2019 while nothing new has been mentioned in the rejoinder, it is merely a repetition/reiteration of his submissions made in the petition.

7 Hearing in the case was held on 30.10.2019. both parties appeared and argued their case.

8 Records available on file have been perused and arguments from both parties were heard. The petitioner's case is that after clearing outstanding dues Rs. 18.00 vide receipt no. 4728861, he applied for permanent disconnection on 19.04.2018 when disconnection fees Rs. 200.00 was also deposited. The meter was removed on 27.04.2018 by respondent's staff in compliance to Executive Engineer's letter no. 1159 dated 23.04.2018 and thus he did not use any electricity thereafter. As the connection did not exist after removal of meter on 27.04.2018 and thus bill amounting to Rs. 1,05,056.00 sent after about 1 year of permanent disconnection is fictitious and fabricated and is not payable by him and the same is therefore liable to be quashed.

5 KW connection applied for has also not been given to him and the same may be ordered to be given to him. He has also requested that the Forum order suffers from many infirmities as mentioned in his petition and has therefore requested that the same may be set aside. It is found that no documentary evidence has been adduced by him to substantiate his claim that his meter was removed on 27.04.2018 and therefore he did not use any electricity thereafter and the demand Rs. 1,05,056.00 raised after about 1 year of the permanent disconnection is fictitious.

On the other hand the respondent have contested the case duly substantiated with the documentary evidences as mentioned above such as show cause notice issued dated 04.09.2019 to SDO for not disconnecting even after instructions issued vide letter no. 1159 dated 23.04.2018, PD report, PD OM, sealing certificate for removal of meter, billing history and MRI report, which all establishes respondent's case that the connection was temporarily disconnected on 20.04.2019 on nonpayment of dues, permanent disconnection on 31.05.2019 and bills for metered consumption were regularly issued till 05/2019.

- 9 In view of the aforesaid facts and documentary evidences the petition fails. The respondent's demand for Rs. 1,05,056.00 towards outstanding dues till date of temporary disconnection for metered consumption for which bills were regularly issued but not paid by the petitioner, is a genuine demand for their legitimate dues and is payable by the petitioner. The petition is accordingly dismissed. Forum order is upheld.

The petitioner is directed to pay the aforesaid outstanding dues, however, in the event of nonpayment by the petitioner the respondent's are at liberty to liquidate their above legitimate dues as per rules/regulations applicable in the matter. Necessary action for release of 5 KW connection as applied for by the petitioner may however be taken by the respondent after clearance of the outstanding dues against the disconnected connection in accordance with relevant regulations.

Dated:31.10.2019

Subhash Kumar
(Ombudsman)