

## THE ELECTRICITY OMBUDSMAN, UTTARAKHAND

Shri Umesh Kumar  
S/o Late Shri Barham Dutt  
Vill. & P.O. Chudiyala,  
Tehsil Station Bhagwanpur  
Distt. Haridwar, Uttarakhand.

Vs

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

Representation No. 36/2018

### **Order**

Date: - 18.02.2019

The petitioner, Shri Umesh Kumar has filed this petition against the order dated 30.10.2018 in complaint no. 138/2018 of the Consumer Grievance Redressal Forum, Haridwar zone (hereinafter referred to as Forum).

2. Petitioner has approached the Ombudsman on behalf of his late father Shri Barham Dutt, in whose name the connection subsists, and as his legal heir and user of the connection. Petitioner claims that right from 2015 despite repeated requests respondent has not provided the bills to the petitioner because of which he has been unable to make the payment. Petitioner has also filed request on 28.05.2014, 14.01.2015, 12.10.2015, 21.12.2015 and 02.02.2018. He also made enquiries under the RTI Act which were denied and he has filed an appeal in the same. Respondent vide their letter no. 3322 dated 03.11.2017 have given 11 bills out of which the latest bill dated 05.07.2017 for a sum of Rs. 62,223.00 in which mistakenly LPS has been charged. Petitioner filed the appeal under the RTI and then respondent vide his letter no. 1371 dated 15.05.2018 sent his bills up to May 2018 and again wrongly quoted Rs. 1,44,525.00 as the amount due. When petitioner complained about this bill he was given a third bill on 20.06.2018 for a sum of Rs. 1,12,477.00 again including LPS. Petitioner therefore has argued that respondent have been issuing bills as per their

whim without reference to facts and no regular bills are being issued. Respondent have no authority to recover LPS. Petitioner further feels that he is entitled to Rs. 50,000.00 as compensation in addition to legal expenses. Forum in their order dated 30.10.2018 have not analyzed the evidence placed by the petitioner before them nor have they given any basis for their order except using the letter no. 3714 dated 06.10.2018 of the respondent as the basis for their order and for rejecting the petitioner's request. Petitioner has therefore maintained that the order of the Forum deserves to be set aside firstly because while only 2 members heard the argument and Judicial Member was not present, the order has been signed by all three; secondly as has been proved by the petitioner despite repeated requests bills were not made available by the respondent and it was only after petitioner filed appeal under the RTI that a bill for Rs. 62,323.00 dated 03.11.2017 and incorporating 11 bills was handed over to him. Similarly wrong bills were given to him inclusive of LPS in May 2018 for Rs. 1,44,925.00 and again with LPS a revised bill dated 20.06.2018 of Rs. 1,12,477.00. Petitioner therefore feels that all three bills are not factual and deserve to be quashed and a new bill of actual consumption without LPS issued which the petitioner undertakes to pay. Accordingly petitioner has requested that his petition may be allowed and Forum order set aside.

3. The Forum in their order dated 30.10.2018 have observed that in the revised bill of Rs. 1,12,477.00 issued on 20.06.2018 LPS of Rs. 10,639.00 has been adjusted (lek;ksftr) but the petitioner has not deposited the bill amount. Forum also observed that respondent make bills available on their website but the petitioner has not taken advantage of this facility, and therefore, non receipt of bills cannot be a ground for nonpayment. Accordingly, Forum have upheld the bill of Rs. 1,12,477.00 issued on 20.06.2018 and dismissed the complaint.
4. Respondent, in their written statement, have belabored the point that petitioner is not a consumer and that after the death of his father he has not applied for change of his name in accordance with provisions of the Supply Code Regulations, 2007 which provide for full payment at the time of mutation. Respondent have also made light of petitioner's claim that he requested for bills multiple times and even through RTI and have suggested that neither in his RTI nor his request to the SE did he ask for a copy of the bill. Further, respondent have maintained that grievance redressal camps are

organized for the benefit of consumers regularly. In village Chudiyala dates of monthly camps organized in 11 months between August 2017 and September 2018 have been given. Petitioner did not take advantage of these camps but filed a complaint before the Forum on 06.09.2018. They have further made a statement that the incoming and outgoing of the meter of the petitioner has been disconnected and meter separated from the supply of electricity without giving any further information regarding when this was disconnected and by whom. This paragraph of the written statement remains unexplained. Regarding the grounds of appeal, respondent have asserted that hearing of the petition by 2 members and order being signed by 3 does not vitiate the validity of the judgment and therefore the present petition needs to be dismissed with costs. Further, respondent have asserted that even if there is an alleged shortcoming in giving of the bills, it cannot be a ground for causing loss to the public utility. Since the bill issued for 1,44,925.00 has been duly corrected to Rs. 1,12,477.00 and LPS has not been charged, and despite that petitioner has not made any payment, it is clear that he does not wish to make any payment while continuing to enjoy electricity and therefore he has no grievance and petition is liable to be dismissed with costs.

5. Petitioner in his rejoinder dated 02.01.2019 has reiterated his claims made in the original petition and has requested that since the Forum did not pay any attention to either the documents submitted or the arguments raised, their order must be set aside.
6. Both parties have been heard. Respondent were directed to give explanation of revised bill for June 2018 if it is correct, and if not, submit corrected bill by the next date i.e. 24.01.2019. Respondent submitted the calculation not on 24.01.2019, the date of hearing but on 25.01.2019. The calculation suggests that the revised bill issued on 20.06.2018 for Rs. 1,12,477.00 for 51574 units and upheld by the Forum in their order dated 30.10.2018, is incorrect and the calculation submitted on 25.01.2019 wherein the total outstanding bill has been shown as Rs. 1,18,346.00 for  $(28787 - 5804) = 22983$  units recorded by old meter from 07/2011 to 08.05.2017 and 11646 units recorded by the new meter from 08.05.2017 to 20.06.2018. Thus total metered consumption from 07/2011 to 06/2018 is 34629  $(22983 + 11646)$  units. In addition, for the period that the petitioner's consumption was lower than the MCG level, charges have been levied as per MCG provided in the relevant tariff. In addition,

respondent have also charged Rs. 40,369.00 as LPS in the period 07/2011 to 08.05.2017 and Rs. 4,101.00 in the period 08.05.2017 to 20.06.2018. A total of Rs. 44,470.00 has therefore been charged as LPS as per this calculation sheet. This is in contradiction to what the respondent have maintained in their written statement as well as in their statement before the Forum.

7. From the above analysis it is therefore clear that 11 bills were given at the time of petitioner filing an appeal under RTI on 03.11.2017, amounting to Rs. 62,223.00, the last bill being of 05.07.2017 with LPS. 11 bills for PTW connection would suggest a period of 5½ years in which the respondent did not issue regular half yearly bills and at the end of this period gave 11 bills all for NR. The complaint of the petitioner that he has not been given bills is justified. In the absence of regular billing for metered consumption as per Tariff provision, no LPS can be charged as already admitted by the respondent in their written statement both before the Forum and before the Ombudsman. However, despite this, and despite 3 opportunities for correction when bills for Rs. 1,44,925.00 issued on 15.05.2018 then bill for Rs. 1,12,477.00 issued on 20.06.2018 and now Rs. 1,18,346.00 as per calculation sheet submitted on 25.01.2019 all have included LPS.

8. Respondent are not entitled to issue NR bills for more than 2 billing cycles as per sub regulation 3.1.2 (3) of Supply Code Regulations, 2007

*3) Where meters could not be read because of non-availability of any consumer, licensee may raise a provisional bill based on the last one year's average consumption of the consumer clearly showing the date when the meter reader went to the consumer's premises to take the meter reading and reason for not being able to do so. All such bills shall be suitably adjusted as and when such meters are read. Such provisional billing shall not continue for more than 2 billing cycles at a stretch and thereafter no provisional bills shall be raised.*

9. However in this case not only did respondent continue to supply electricity without a reading, they also did not issue a bill to the consumer for five and half years and even then after repeated requests were these 11 bills given to the consumer cumulatively. Since petitioner has utilized the energy supplied it may not be fair to deny the opportunity to the respondent for billing for actual consumption by the petitioner, but

LPS cannot be levied since no firm bill has been issued till now. Respondent have repeatedly committed to not charging LPS before the Forum as well as before the Ombudsman but have continued to levy LPS in their calculation and billing. Licensee UPCL are hereby directed to issue a revised bill based on actual metered consumption for the period 07/11 to 06/2018 as per calculation submitted by them on 25.01.2019, and subject to provisions of appropriate tariff regarding MCG, and without levy of LPS. Petition is therefore allowed. Forum order, upholding bill dated 20.06.2018 amounting to Rs. 1,12,477.00 which bill stands modified in the current calculation submitted by the respondent on 25.01.2019, is set aside.

10. Senior management of Licensee may examine the reasons for and accountability of those responsible for continuing NR billing for more than 5 years in violation of specific provisions of Supply Code Regulations, 2007 as quoted above and take appropriate action.

Dated: 18.02.2019

(Vibha Puri Das)  
Ombudsman