

BEFORE THE FORUM
FOR REDRESSAL OF CONSUMER GRIEVANCES
IN SOUTHERN POWER DISTRIBUTION COMPANY OF A.P LIMITED TIRUPATI
On this the 13th day of February 2019
C.G.No:348/2017-18/Vijayawada Circle

Present

Sri. A. Jagadeesh Chandra Rao
Sri. A. Sreenivasulu Reddy
Sri. D. Subba Rao
Sri. Dr. R. Surendra Kumar

Chairperson
Member (Finance)
Member (Technical)
Independent Member

Between

N. Koteswara Rao,
C/o. Aruna Photo Studio,
D.No.1-122-11,
Pedana,
Krishna Dt.

Complainant

AND

1. Assistant Engineer/O/Pedana
2. Assistant Divisional Engineer/O/Pedana
3. Divisional Engineer/O/Machilipatnam

Respondents

* * * * *

ORDER

1. N. Koteswara Rao, Aruna Photo Studio, Pedana Krishna Dt presented a complaint before this forum during the vidyut adalat held at Parchur on 21.03.2018. The complainant in his petition has requested to set aside the final assessment orders issued by the DE/Assessments/TPT and SE/Assessments/TPT on wrong categorization and also requested to pass necessary orders for correct categorization against Service No. 6244300000902 under Category - 1 and service. No. 6244300007433 under Category- 2. The case was registered as C.G. No.348/2017-18. In the meanwhile the complainant has requested this forum vide his letter dt: 23.03.2018 to pass orders directing the respondents not to disconnect the two service connections till final orders are issued by the Forum.
2. Taking into consideration of the facts put forth by the complainant together with the assessment orders and also further in order to meet the ends of the justice the forum has directed the respondents not to disconnect the service connections of the complainant on deposit of Rs.31,000/- being the sum equal to 1/4th of the disputed amount on or before 07.04.2018 and complainant was also directed to pay the monthly bills regularly till the disposal of the case by the forum vide its order I.A.No.09/2017-18 Dt: 29.03.2018.

DESPATCHED

DATE

16/2

3. The case of the complainant is that he is having a premises consisting of ground floor and first floor. He is running a photo studio in ground floor and residing in first floor. Originally he had obtained one single phase service No. 624430000902 for domestic connection and one non domestic service connection for his photo studio with No.6244300007433. Subsequently he had applied for load enhancement and phase conversion from 1Phase to 3 Phase on the two existing service connections one for with 6 KW for his residence and the other for 10 KW for the photo studio. Both the meters were arranged adjacent to each other in the ground floor. He was paying electricity bills regularly. He has received notice from ADE/O/Pedana to pay Rs.1,22,893/- on the ground that he was unauthorizedly utilizing the domestic service connection for his photo studio. After receipt of notice he had appealed to DE/Assessments/TPT, but his objections were not taken into consideration. The appeal preferred before SE/Assessments/TPT was also not considered and directed him to pay the amount mentioned in the notice. The Assessment officers simply supported the contention of the field officers without any enquiry. They have not stated anything for wrong classification of the category. The wrong classification was happened only due to the mistake of the officers of the department. He cannot be penalized for the lapses and omissions committed by department personnel. The complainant further stated that Clause. No. 3.4.1 of General Terms and Conditions of Supply was not followed in this case.

4. The Respondent No.2 submitted para wise replies, the nutshell of the submissions are as follows :

Service No.624430000902 was released for domestic purpose in the name of N. Koteswara Rao on 24.04.1971 whereas the service No.6244300007433 was released for commercial purpose in the name of N. Krishna Kumari on 14.05.2009. The complainant has reconstructed the building and applied for additional load to his services on 15.10.2016 and three phase meters were fixed in the place of existing single phase meters on 18.10.2016. The complainant has arranged meter board in the ground floor and both the meters were fixed on the same board side by side. AE/DPE/VJA inspected the premises on 20.10.2017 and registered a malpractice case that at the time of inspection complainant is availing supply for studio purpose from service No.624430000902 which is under category-1. The complainant is having another category- 2 service bearing No. 6244300007433 in the same place but intentionally availing supply for domestic purpose. After inspection of service by the DPE the complainant was served the bills under category-2 for both the services. Later the complainant applied for change of category from 2 to 1 for service No. 6244300007433 as he is availing supply for domestic purpose. The category of the service was changed from 2 to 1 on 17.01.2017. The complainant was given an opportunity to file his objections before DE/Assessments/TPT accordingly the

complainant has also filed his objections before DE/Assessments/TPT. The DE/Assessments in turn after due consideration of the objections raised by the complainant confirmed the assessment amount. The complainant has also filed appeal before the SE/Assessments/TPT on 22.01.2018 and before the CMD/APSPDCL on 25.01.2018. The CMD/APSPDCL has ordered CE/Zone/VJA to enquire into the matter and submit the report. The SE/Assessments/TPT has passed his final orders after receipt of the report.

5. Two personal hearings were conducted on 30.10.2018 and 11.12.2018 at Court Hall, Tirupati. The complainant and respondents presented and submitted their pleadings. The complainant in his additional submission on 30.10.2018 while reiterating his earlier complaint raised objections on the following :

- i) He is having two single phase services at Pedana town with service connection No.6244300000902 for category -1 and service connection No.6244300007433 for category -2.
- ii) The complainant urged the forum to obtain the original application seeking supply from the Licensee as a proof of his obtaining supply for the purposes for which it was applied for in respect of service No.6244300000902.
- iii) The original test report signed and furnished by him to the Licensee at the time of release of supply and fixing of meter to the premises to prove that it is a mistake of fact committed by the Licensee in wrong categorization.
- iv) The inspecting authority had agreed that there is another service No.6244300007433 released under commercial and utilized for domestic only. Hence he has paid excess charges under commercial category though he is liable to pay under domestic category only.
- v) The excess paid amount for service No.6244300007433 is not considered while penalizing service No.6244300000902.
- vi) The appellate authority had himself stated that it could not be established whether the malpractice was intentional or unintentional in view of the circumstances existing non domestic service taken for but utilized for domestic.

Finally the complainant requested the forum to set aside the assessment amounts as it had happened due to mistake of facts committed by the Licensee and to pair off the excess charges paid by him against service No.6244300007433.

6. The Respondent No.1 has submitted that the original application and test report of the complainant services were not traced out either in the section office or at ERO. He has simply furnished that the additional load for both the services were released on 18.10.2016.

7. Points for determination are :

1. Whether the Complainant has intentionally availed supply for commercial purpose for the service which was released for domestic purpose?
2. Whether the respondents are entitled to collect the assessment amount as finalized by the SE/Assessments/TPT in the absence of documentary evidences such as test report and agreements entered into by the Complainant at the time of releasing of supply, releasing of additional load and conversion of services from single phase to three phase?

On perusal of the account copy and master changes in respect of service No.6244300007433 it is noticed that the service connection was released on 14.05.2009 under category-1 and the category was changed from 1 to 2 with effect from 01.12.2012. From then onwards the service was continuously billed under category-2 till 19.11.2017. The category of the service was changed from Cat- 2 to Cat -1 with effect from 19.11.2017. The respondents have not furnished any valid documentary evidence for change of category from 1 to 2 on 01.12.2012. Further though both the service connections were inspected by ADE/Pedana on 27.09.2016 and observed excess of connected load over the contracted load and issued notices for development charges for both the services, he has not put forth any malpractice other than exceeding of connected load over the contracted load.

Complainant filed an application to direct the respondents to furnish original application and test report when he applied for three phase connection for the disputed two service connections. Respondents after taking one adjournment filed memo stating that the original application, test report are not traced. The burden is on the respondents to prove that complainant indulged in malpractice. Respondents failed to prove the same by furnishing any documentary evidence. On the other hand CE/Zone/VJA conducted inquiry as per the direction of the Hon'ble CMD and presented report stating that there is no evidence to prove that complainant intentionally indulged in malpractice

Taking into consideration of the above facts it can be safely concluded that the complainant has not intentionally indulged in malpractice but while fixing the meters in the ground floor with three phase meters. Departmental staff might have erroneously connected connections by connecting domestic load to commercial service and vice versa (commercial load to domestic service). The complainant cannot be made responsible for the lapses/errors committed by the respondents by

