

**BEFORE THE FORUM  
FOR REDRESSAL OF CONSUMER GRIEVANCES  
IN SOUTHERN POWER DISTRIBUTION COMPANY OF A.P LIMITED TIRUPATI**

**On this the 30<sup>th</sup> day of January 2020**

**C.G.No:181/2018-19/Vijayawada Circle**

**Present**

**Sri. Dr. A. Jagadeesh Chandra Rao  
Sri. A. Ramdas  
Sri. Dr. R. Surendra Kumar**

**Chairperson  
Member (Finance)  
Independent Member**

**Between**

**N.Penchalaiah,  
C/o.M/s. Vijayawada Castings Pvt.Ltd ,  
74-6-11,  
Ayyappa Nagar,  
Vijayawada,  
Krishna -Dist.**

**Complainant**

**AND**

**1.Chief General Manager/R & IA/Corporate  
Office/Tirupati  
2.Senior Accounts Officer/O/Vijayawada  
3.Superintending Engineer/O/Vijayawada**

**Respondents**

**ORDER**

1. N. Penchalaiah Managing Director of the complainant filed the present compliant stating that they have obtained a service connection of 280 KVA supply by paying Rs.5,52,020/- on 18.08.1997 to manufacture cylinder liner castings by melting iron and steel in electric induction furnace which is continuous process. They have paid Rs.8,40,694/- towards security deposit for the HT connection. They have successfully running the business from 1998 to April' 2012 and paid electricity bills without any default. They have also taken another service No. HT Sc No. VJA 891 with CMD 400 KVA in the name of Vijayawada Alloy Castings, Kanur. Their service was never disconnected for a period of 15 years as they paid CC charges promptly. From November'12 severe power cut was imposed by electricity department. In addition to these huge penalties were levied by imposing restriction and control measures. Due to R& C measures, they have paid Rs.3,00,000/- towards penalties Rs.79,800/- penalty was levied for fault in Board measuring meter. There was time difference from actual to meter time which was confirmed by MRT also. They made a representation in this regard to waive of the same which was not considered till date. They had been allowed to use

**DESPATCHED**

**DATE 03/02**

only 60% of CMD of 280 KVA, due to which they could not operate their melting furnace. Their furnace needs continuous full CMD, hence they could not produce their required product, due to which they lost orders and eventually closed their operation from October 2012.

They have informed in writing to the department on 05.11.2013 to remove their HT service permanently. The service was disconnected on 30.12.2013 as they have not paid CC charges for November'13. They should have disconnected in November itself on their request letter. They have paid CC charges up to October'2013.

Subsequently they have received HT minimum bills for six months from November'13 to April'14 for an amount of approximately Rs.11,00,000/- though they have not carried out production activities. They have never informed for payment of minimum charges for 6 months even after closure of the unit. The same is not mentioned in HT agreement dt : 22.08.1997. They requested to allow to pay one month bill for November from the date of their request dt: 05.11.2013 for disconnection of the supply. Several times they represented the matter but no action was taken. They have been asked by Corporate Office to come to their office on 06.07.2018 for one time settlement in their letter Dt: 16.11.2016. Their account copy was shown stating that they have to pay minimum Rs.7,00,000/- for closure of their account including FSA of Rs.5,87,183/- and surcharge on it for Rs.4,10,467/- which was never informed to them for closure of the industry till 06.07.2018. FSA was related to the previous CC bills. They agreed to pay the same without interest as they are unaware of FSA details till 06.07.2018. They should have recovered the arrears from their security deposit amount at that time itself and informed if any balance is to be paid without charging surcharge. He was also pressurized for payment of Rs.7,00,000/- for closure of their account in addition to their Security Deposit amount of Rs.8,40,694/- on 20.07.2018 and he was informed, that they will proceed under RR Act if the amount is not paid. Out of fear he had agreed to pay Rs.7,00,000/-

Complainant may be permitted to pay only one month CC charges from the date of intimation for disconnection and FSA charges of Rs.5,87,183/- as the process was delayed only by the department. The request for one time settlement was delayed by the department even though they made representation on 16.11.2016.

2. Complainant presented this complaint before the Hon'ble APERC. The Director (Administration)/ Hon'ble APERC forwarded the complaint to this Forum for adjudication.

3. Respondent.No.1 filed written submission stating that the service was released in the name of complainant vide HT Service No. VJA 565. Consumer made a representation to grant installments for payment of CC charges. Accordingly permission was accorded to pay CC charge arrears of Rs.8,35,914/- in 4 installments. But the amount was not paid. Further consumer has represented for waiver of monthly minimum charges during the disconnection period and restoration of power supply to run their sick industry. APSPDCL has accorded approval for waiver of monthly minimum charges during the disconnection period beyond the completion of agreement period duly paying arrears. But the consumer has failed to come for restoration of power supply.

Again consumer has represented on 16.11.2016 to avail one time settlement scheme and requested to accord permission for settlement of arrears under one time settlement. Though the consumer has not paid any arrears either under installments or monthly minimum charges as accorded earlier. However the SPDCL has considered his request of one time settlement proposal and it is under process.

The consumer has stated that HT service VJA 565 was disconnected on 26.11.2013 based on the representation made by him, and the consumer also stated that the CC charges against HT service have not paid from November'2013. But as per the circle office report the service was disconnected on 30.12.2013. Due to non-payment of CC charges and after non receipt of CC charge for 4 months Superintending Engineer/O/ Vijayawada had issued one month notice.

**Clause No. 5.9.4.3 of GTCS provides :**

*"Where any consumer whose supply is disconnected for non-payment of any amount due to the Company in any account, fails to pay such dues and regularize his account within three months from the date of disconnection, the company shall after completion of 3 months period issue one month notice for termination of the LT or HT agreement, as the case may be. If the consumer still fails to regularize the account, the Company shall terminate the agreement".*

Action was taken as per the above clause.

4. Respondent No. 3 filed separate written submission. The contents of written submission are almost similar with the contents of written submission filed by Respondent No. 1.
5. Points for determination are whether :
  1. The complainant is not liable to pay the minimum charges for four months on the ground that he had issued notice of one month dt : 05.11.2003 for termination of agreement?

2. Whether the complainant is not liable to pay a penalty of Rs.79,800/- on account of time difference from actual to meter time during R & C period ?

**Point No.1 :**

According to Respondent No. 3 the service connection was disconnected on 30.12.2013. Respondent No.3 served one month notice for payment of service charges for Rs. 8,35,914/- on 01.05.2014. Consumer made a representation dt: 14.06.2014 to Corporate Office for sanction of 10 instalments. The Corporate Office sanctioned 4 instalments. Consumer failed to pay the instalments and made another representation to Corporate Office for waiver of monthly minimum charges dt : 24.06.2014. Waival of monthly minimum charges during closure period orders issued vide Memo No. CGM (Fin)/ GM/Rev/ SAO/AAO/SA/HT/D.No.738/14,dt: 05.08.2014. Consumer has not paid the amount. Termination orders were issued vide T.O. Lr. No.SE/O/VJA/SAO/HT/R2A1/D.No.1985/14 dt : 18.11.2014 w. e. f. 01.05.2014. Further RR Act Form 'A' notice was issued for Rs.15,07,098/- On request of the consumer a detailed report was submitted for one time settlement of arrears. Awaiting for one time settlement from Corporate Office.

Complainant stated that he has informed to the respondent No.3 in writing on 05.11.2013 with a request to remove the service connection with immediate effect and also to consider in respect of penalties imposed due to time difference in peak hours during R& C measures but the same was not considered and filed Photostat copy of the letter dt : 05.11.2013 said to have submitted to SE/O/Vijayawada before the Forum ( Exhibit A1) .

Respondents denied about receipt of this letter. The endorsement was written in two lines and the entire endorsement is not visible. Complainant has also shown the original letter but it is also not visible. The endorsement shows that the receiving officer after making endorsement signed with dt 11.06.2014. When the complainant was asked to produce any additional documents to prove that he submitted original of Exhibit A1, initially he has not produced. But subsequently he has filed a copy of the letter dt: 20.03.2014 (marked as Exhibit A2). Complainant mentioned in the letter dt: 20.03.2014 (Exhibit A2) addressed to respondent No. 3 to the effect that service connection was removed after their representation vide letter dt: 05.11.2013. Now they are requesting to reconnect the supply at the earliest. Exhibit A2 contains the stamp acknowledging the receipt of this letter on 20.03.2014. Copy of the letter addressed by the Mg. Director of the complaint dt: 14.06.2014 to the CMD/APSPDCL shows that they could not operate the plant from October'2013 till date and now they have decided to operate the plant. SE/O/Vijayawada asked them to pay

Rs.8.36,914/- to reconnect the supply vide letter dt 01.05.2014. They had also informed to Respondent No. 3 to terminate the supply if not reconnected immediately and not able to pay the entire amount at a time and requested to grant 10 instalments.

The file further shows that the Corporate Office granted 4 instalments and complainant requested to waive the monthly minimum charges and also interest on FSA. Subsequently complainant filed an application on 16.11.2016 for one time settlement and when the matter was pending, complainant approached Hon'ble APERC for resolving the grievance.

Complainant has not filed any proof that the letter dt : 05.11.2013 said to have been submitted by him to respondent No. 1 to disconnect the service and to terminate the agreement was really received by the office of Respondent No.3. But the contents of Exhibit A 2 shows that he has mentioned about writing of a letter dt: 05.11.2013 for removal of service connection. Complainant also mentioned in the letter addressed to CMD of APSPDCL for restoration of supply that the plant was closed from October'2013. So also the same fact was mentioned in the proceedings given by respondent No. 1 in Memo No. CGM/Expn/GM (Rev)/SAO ( R)/AAO @/D.No.615/14 Dt: 02.07.14.

Complainant represented before the Forum that he had submitted copy of the letters dt: 05.11.2013 to DE and ADE/Gundala when the forum asked the respondent No. 2 in the hearings in respect of the receipt of the letter dt: 05.11.2013 by any of the officers after lapse of considerable time represented that there is no record to show that original of Exhibit A1 was received by any of the officers in Vijayawada Circle .

The further correspondence made by the complainant under original of Exhibit A2 and request for grant of instalment clearly shows that consumer has not decided either to close the plant or intended to restart the unit. It appears when respondents are not inclined to waive monthly minimum charges for 4 months and interest on the arrears, complainant has approached the Forum basing on the provisions of Clause 5.9. 4.2 of GTCS.

***“Clause 5.9.4 : Termination of Agreement :***

***Clause No. 5.9.4.2 is as follows: Deration of CMD or Termination of Agreement in respect of HT supply :***

*“ The consumer may seek reduction of contracted maximum demand or termination of the HT Agreement after the expiry of the minimum period of the Agreement by giving not less than one month notice in writing expressing his intention to do so. However, if for any*

*reason the consumer chooses to derate the CMD or terminate the Agreement, before the expiry of the minimum one year period of the Agreement, the CMD will be derated or the Agreement will be terminated with effect from the date of expiry of the initial one year period of the Agreement or after expiry of one month notice period whichever is later. The Company can also terminate the HT Agreement, at any time giving one month notice if the consumer violates the terms of the HT Agreement, or the GTCs or the provision of any law touching the Agreement including the Act and rules made there under, and AP Electricity Reforms Act, 1998. On termination of the HT Agreement the consumer shall pay all sums due under the Agreement as on the date of its termination”.*

The contents of Exhibit A2 shows that complainant has mentioned about their letter dt : 05.11.2013 with a request for disconnection of the service. Respondent No.3 did not give any explanation as to why a reply was not given stating that the office has not received any such letter and also seeking clarification whether the complainant intended to get restoration of power supply or termination of the agreement. On the other hand made an endorsement on 11.06.2014 on the original of Exhibit A1 dt : 05.11.2013 submitted by Mg. Director of the complaint.

The Office of respondent No.3 is supposed to maintain inward register. Simply stating that they have not received the letter submitted by complainant under original of Exhibit A1 is not sufficient that too when Exhibit A2 contains endorsement of office of respondent No. 3 about receipt of it . Respondents No. 2 and 3 also did not state what action was taken by the office on receipt of original of Ex A2. It appears the endorsement made on Exhibit A1 is in respect of request for restoration of supply complainant after 3 days made an application to the Corporate Office on 14.06.2014 for restoration of supply. In the absence of any material furnished by Respondent No.3 to show that original of Exhibit A1 was not received by their office, it has to be presumed that complainant made an application for disconnection of service due to loss in the business and subsequently when he received a notice for payment of minimum charges and interest on arrears he made an attempt for restoration of service connection and when he failed in his attempt he reverted back to his earlier request of disconnection of the service and come with a plea that date of termination of the agreement must be taken from the date of expiry of one month of his letter dt : 05.11.2013. Complainant also did not write any letter after expiry of one month to Respondent No.1 as to why the service was not disconnected permanently inspite of his letter. HT service recording reading card for the complainant service connection shows that

complainant utilized the service and consumed 194 units and 90 units in November'13 and December'13. According to respondents the service was disconnected on 30.12.2013.

In view of utilizing the service connection in the month of December '13 by the complainant and failed to represent to the Respondent No.3 even after the expiry of one month notice to terminate the agreement and to meet the ends of justice, the Forum is of the opinion that the effective date for termination of HT agreement has to be taken as 30.12.2013 and not from 05.12.2013 as contended by the complainant. The point No.1 is answered accordingly.

**Point No.2 :**

Complainant also raised dispute in respect of imposing of penalty of Rs.79,800/- on account of time difference from actual to meter time and his representations were not considered. Complainant has not placed any material in respect of the penalties imposed on him. Respondent No.1 also did not file written submission on this issue. Subsequently when the Forum insisted the respondent No.1 for additional written submission on this aspect, respondent No.1 filed additional written submission stating that no information is available in the file in respect of fault in board measuring meter due to time difference from actual to meter time pertains to this service connection. The issue said to have been taken place during R & C measures period i.e. even prior to 2013. In the absence of any material furnished by the complainant whether the penalties imposed were legally valid or not it is very difficult for the Forum to decide on this issue. Initial burden is always on the complainant to prove his claim. In the absence of any material furnished by the complainant and in view of written submission of respondent No.3 that there is no material available on this aspect. This Forum cannot decide on this aspect as a sequel the claim of the complainant on this aspect is not sustainable.

***“Clause 10.2 (d) of Reg. No. 03/2016 is as follows:***

*The Forum may reject the complaint at any stage under the following conditions.*

- a) .....
- b) .....
- c) .....
- d) *In cases where the complaint :*
  - i. *does not disclose a cause of action:*

- ii. *Appears ex-facie to be barred by any law : or*
- iii. *Is re-presented without rectifying the defects for the correction of which it was returned or beyond the time specified in the endorsement of return:*  
*Provided that no complaint shall be rejected unless the complainant has been given an opportunity of being heard.*

Complainant presented this complaint on this issue after about lapse of 5 years of cause of action . Hence complaint is not maintainable before this Forum in view of the provisions of Clause No. 10.2 (d) of Reg. No. 03/2016. Hence complaint is liable to be rejected on this issue. The point No.2 is answered accordingly.

6. In the result respondents are directed to reckon the date for termination of the HT agreement as 30.12.2013 and issue revised bill. Complainant is liable to pay FSA charges as per the judgment of the Hon'ble Apex Court of India.

If aggrieved by this order, the Complainant may represent to the **Vidyut Ombudsman, Andhra Pradesh, 3<sup>rd</sup> Floor, Sri Manjunatha Technical Services, Plot No:38, Adjacent to Kesineni Admin Office, Sri Ramachandra Nagar, Mahanadu Road, Vijayawada-520008** within 30 days from the date of receipt of this order.

This order is passed on this, the day of 30<sup>th</sup> January'2020.

Sd/-  
**Member (Finance)**

Sd/-  
**Independent Member**

Sd/-  
**Chairperson**

**Forwarded By Order**

  
**Secretary to the Forum**

To

The Complainant

The Respondents

Copy to the General Manager/CSC/Corporate Office/ Tirupati for pursuance in this matter.

Copy to the Nodal Officer (Executive Director/Operation)/CGRF/APSPDCL/TPT.

Copy Submitted to the Vidyut Ombudsman, Andhra Pradesh 3<sup>rd</sup> Floor, Sri Manjunatha Technical Services, Plot No:38, Adjacent to Kesineni Admin Office, Sri Ramachandra Nagar, Mahanadu Road, Vijayawada-520008 within 30 days from the date of receipt of this order

Copy Submitted to the Secretary, APERC,11-4-660, 4<sup>th</sup> Floor, Singareni Bhavan, Red Hills, Lakdikapool, Hyderabad- 500 004.