

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

**On this the 27th day of June ' 2022
Inward No.3403 /2022-23/ Nellore Circle**

Present

Sri. Dr. A. Jagadeesh Chandra Rao
Sri. Y. Sanjay Kumar
Sri. K. Ramamohan Rao
Sri. Dr. R. Surendra Kumar

Chairperson
Member (Technical)
Member (Finance)
Independent Member

Between

K. Venkata Ramaiah,
S/o. K. Subbaramaiah,
25/I/838 (A) 8th Street,
Nethaji Nagar,
Podalakur,
Nellore Dt

Complainant

ORDER

1. Complainant filed this complaint u/s. 35 of Consumer Protection Act, 2019. The present complaint is filed after his representation to the office of Vidhyut Ombudsman/Vijayawada was returned on 29.04.2022 on the ground that "Complainant did not state the provision of law as to how this authority can entertain the representation in the absence of an order from CGRF/APSPDCL/Tirupati" vide Inward No.33 dt: 29.04.2022.
2. The case of the complainant is that the service No. 3311208137158 is in his name but it is being utilized by L& T Construction Water and Effluent Treatment IC Nellore-UGDS project and it is used for accommodation purpose of the workers. APSPDCL personnel are visiting the service every month, recording the consumption of electricity and CC bills are paid regularly without any default. SE/Assessments/Tirupati without examining the merits of his appeal and without hearing him passed an illegal order and dismissed the appeal. Hence the orders passed by SE/Assessments/Tirupati may be set aside

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and the amount of 50% paid against provisional assessment order shall be returned and continue the service under Cat-I only.

3. Since the complainant is questioning the appeal dismissed by SE/Assessments/Tirupati, the complaint is posted for hearing in respect of maintainability of the complaint.
4. Personal hearing was conducted on 08.06.2022 and heard the complainant. Complainant requested 10 days' time for submission of written arguments and accordingly time was granted for submission of written arguments. Written arguments filed by the complainant. The contents of written arguments are almost similar to the contents of his complaint.
5. Point for determination is whether the complaint filed against dismissal of the appeal by SE/Assessments/Tirupati in the appeal filed against the final assessment order passed by EE/Assessments/Tirupati u/s.127 of Electricity Act, 2003 is maintainable before this Forum?

Complainant earlier filed a complaint against the final assessment orders passed by EE/Assessments/Tirupati against the Service No. 3311208217619 vide Inward No. 3022 dt : 11.10.2021/ 2021-22/ Nellore Circle and the same was rejected. Aggrieved by the orders of this forum, complainant filed representation before the Hon'ble Vidhyut Ombudsman vide representation No. 33 dt: 30.12.2021 and it was disposed on merits. The above said complaint was filed against inspection conducted by Mr. A. Jaya Krishna Reddy EE/DPE-II/Nellore Dt: 22.08.2019 and for registering the case for using the service No.217619 released under domestic service for non domestic service i.e. utilizing water for water treatment plant – utilizing for other than sanctioned purpose.

Complainant now questioning in this complaint in respect of the inspection alleged to have been conducted by Mr. A. Jaya Krishna Reddy EE/DPE-II/Nellore Dt: 22.08.2019 and for registering the case for using the

service No. 137158 released under domestic service for non-domestic service i.e. pumping water to water treatment plant in the same premises.

The date of inspection for both the service numbers. 137158 and 217619 is one and the same i.e. 22.8.2019. The same officer conducted inspection and registered cases u/s.126 of Electricity Act, 2003 for utilizing the service other than the sanctioned purpose. Complainant filed complaint questioning the final assessment order passed against service No. 217619 and when that complaint was rejected, he made a representation to Hon'ble Vidhut Ombudsman. But complainant did not file complaint questioning inspection and final assessment order passed by EE/Assessments against service No.137158. As per the record, EE/Assessments passed final order on 13.9.2019. The order passed by SE/Assessments dt :25.02.2022 shows that as per the directions of Hon'ble Vidhyut Ombudsman, consumer was given personal hearing, attended the office, re-submitted his representation on 5.1.2022 and as per consumption pattern the assessment was revised. The appeal was disposed off by SE/Assessments on merits.

Complainant did not state as to why he did not present complaint against the inspection conducted and final assessment order passed by EE/Assessments against service No. 137158 when he presented a similar complaint against the inspection and final assessment order passed by EE/Assessments against service. No. 217619. Complainant also did not state that the same inspecting officer inspected another service Number and registered similar case in his earlier complaint.

It was held in Gammon India Ltd and another Vs National Highways Authority of India reported in AIR 2020 Delhi 132 :

“ Keeping in mind the broad principles which have encapsulated in Or.II Rule 2 CPC, and also Sec.10 and 11 of CPC which would by itself be inherent to the

public policy of adjudication process on India, it would be impermissible to allow claims to be raised at any stage and refer to multiple arbitral tribunals, sometimes resulting in multiplicity of proceedings as also contradictory awards”.

We are of the opinion that provisions of Or.II Rule.2 C.P.C., Sec.10 and 11 CPC are applicable to the proceedings before this Forum to avoid multiplicity of proceedings and conflicting and contradictory orders by the different Fora's.

This forum is constituted as per Reg. 03 of 2016 issued by Hon'ble APERC.

Cl.10.2 (b) of Reg. 03 of 2016 is as follows:

“10.2 The Forum may reject the complaint at any stage under the following circumstances:

a)

b) In cases which fall under Sections 126, 127, 135 to 139 and 152 of the Act:

c).....

d).....

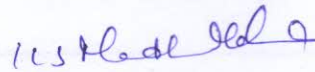
Provided that no complaint shall be rejected unless the Complainant has been given an opportunity of being heard.”

In this case the appeal filed by the complainant against final assessment order passed by EE/Assessments/Tirupati was dismissed by SE/Assessments/Tirupati on merits. The appeal order of SE/Assessments/Tirupati shows that opportunity was given to the complainant for hearing as per the directions of Hon'ble Ombudsman and thereafter revised the assessment. No authority is placed before this forum that this forum is competent to set aside the orders of SE/Assessments/Tirupati passed on merits. The forum is competent to reject the complaint filed against the cases registered u/s. 126 of Electricity Act, 2003 at any stage as per Cl. 10.2 (b) of Reg. 03 of 2016.

In view of the facts of this case, this forum is not inclined to interfere and entertain the complaint against the orders passed on merits by SE/Assessments/Tirupati in the appeal filed by the complainant against the final assessment order issued by EE/Assessments/Tirupati in the case registered u/s. 126 of Electricity Act, 2003. There are no merits to entertain the complaint by this forum. The point answered accordingly.

6. In the result the complaint is rejected.

Forwarded By Order



Secretary to the Forum

This order is passed on this, the day of 27th June '2022

If aggrieved by this order, the Complainant may represent to the Vidyut Ombudsman, Andhra Pradesh, 3rd 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.

To

The Complainant

The Respondents

Copy to the Nodal Officer (Chief General Manager (O&M)/ Operation)/ CGRF/ APSPDCL/ Tiruati.

Copy Submitted to the Vidyut Ombudsman, Andhra Pradesh , 3rd Floor, Sri Manjunatha Technical Services, Plot No:38, Adjacent to Kesineni Admin Office, Sri Ramachandra Nagar, Mahanadu Road, Vijayawada-520008.

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