

CONSUMER GRIEVANCES REDRESSALFORUM
SOUTHERN POWER DISTRIBUTION COMPANY OF A.P LIMITED, TIRUPATI

This the 27th day of October' 2023
C.G.No.22/2023-24/Ananthapur Circle

CHAIRPERSON Sri. V. Srinivasa Anjaneya Murthy
Former Principal District Judge

Members Present

Sri. K. Ramamohan Rao	Member (Finance)
Sri. S.L. Anjani Kumar	Member (Technical)
Smt. G. Eswaramma	Member (Independent)

Between

Motupalli Manohar, H.No.1/35, Rayalacheruvu (V)
Yadiki (M), Ananthapur District.

Complainant

AND

1. Assistant Accounts Officer/ERO/ Tadipatri
2. Dy. Executive Engineer/O/Tadipatri
3. Executive Engineer/O/Gooty

Respondents

This complaint came up for final hearing before this Forum through video conferencing on 19.10.2023 in the presence of the complainant and respondents and having considered the complaint and submissions of both the parties, this Forum passed the following:

ORDER

1. The case of the complainant is that he is a resident of Rayalacheruvu (V), that he is having one electrical service connection under Category-I bearing SC.No.7231430002793, that the respondents without his knowledge changed his service from Category-I to



Category-II and thereby requested to direct the respondents to change his service connection from Category-II to Category-I.

2. The said complaint in the first instance was rejected/returned by the secretary of this Forum vide Lr. No. CP/Secy/CGRF/APSPDCL/TPT/F.No./D.No.110/2022 Dt: 14.10.2022. But the complainant again represented the same on 28.09.2023 stating that without hearing him, his complaint was rejected.
3. The complaint was registered as C.G.No.22/2023-24 and notices were issued to the respondents calling for their response. The respondents submitted their response stating that the service No. 7231430002793 was released under LT Cat-I in the name of the complainant with load of 05 KW on 18.05.2018, that on 05.10.2019 the ADE/DPE/Anantapur inspected the service premises and found that the consumer is using the supply for building construction purpose for the last one year and submitted his inspection report which was signed by Sri. K. Sai Krishna/Manager of the complainant. Then a malpractice case against the service was registered under Sec.126 of the Electricity Act and assessed shortfall of back billing of Rs.56,362/- vide PAO Notice No. DPE/GTY/TDPO/8849/2019. But the complainant did not pay the said amount and did not approach the appellate authority as per PAO Notice. Then the DE/Assessment/Tirupati issued FAO for the same amount vide FAO Order

EE/Assessment /Tirupati/ KZ/ FAO/ F.No.10-19/ TDP/D.No.1651/
Dt: 30.11.2019. As per the malpractice case, the service category of
the complainant was changed from LT Cat-I to Cat-II on 29.11.2019
and monthly CC bills under Cat-II were issued from Dec'2019
onwards and the assessment amount was also included in CC bills but
the complainant paid CC bill amount only every month but did not
pay the assessment amount. The complainant filed a case in CGRF
vide Case ID No.4732020/2020-21 and the same was rejected by this
Forum for the reason that a malpractice case was registered against
the complainant under Sec.126 of the Electricity Act. Then the
respondents issued a notice to the complainant demanding for
payment of dues vide Notice No.573/20 dt:24.12.2020. The
complainant filed an appeal vide Appeal No.27 of 2020-21 before the
Hon'ble Vidyut Ombudsman and the same was allowed directing the
respondents to pass a fresh final order of assessment after affording
reasonable opportunity of hearing to the complainant under Sec.126
(3) of the Electricity Act. Then the DE/Assessment afforded an
opportunity of hearing to the complainant but the complainant did not
attend for hearing and hence the FAO order was confirmed. Even
then, the complainant did not pay the assessment amount and hence
the supply was disconnected in May'2022 and bill stopped in
June'2022 with dues of Rs.74,055/- (Assessment amount + unpaid

regular bills). The complainant applied for a new service connection in the same premises but as he failed to pay the assessment amount for SC.No.7231430002793, his request was rejected. Then the complainant filed C.G.No.74/2021-22 before this Forum for issuance of new connection but the same was dismissed on 28.03.2022. Then the complainant preferred an Appeal No.07/2022-23 in which the Hon'ble Vidyut Ombudsman while directing the respondents to issue a new connection to the complainant, stated that the respondents are at liberty to take action as laid down under paragraph -3 of Clause 4.8.1 of Regulation-05/2004 for collection of the assessment amount in respect of SC. No. 7231430002793. As per the above referred order of the Hon'ble Vidyut Ombudsman, the respondents issued a new connection SC.No.7231430003186 to the complainant on 25.06.2022. Hence, the complainant has knowledge about bill stopping and change of category in respect of SC.No.7231430002793 and suppressing the previous legal battle, with regard to the same issue, the complainant with false averments filed the complaint. The respondents by following the relevant Rules and Regulations and the orders of the Hon'ble Vidyut Ombudsman and this Forum, changed service connection Category-I to II to the knowledge of the complainant only and raised demand for payment of assessment



amount but the complainant without paying the said amount filed this complaint with false averments.

4. Now the point for determination is:

Whether the complainant is entitled for change of category of his service connection SC.No.7231430002793 from Cat-II to Cat-I as prayed for?

5. No documents are marked for the complainant. Exhibits. R1 to R4 are marked for the respondents. Heard both the parties through video conferencing. The complainant besides addressing oral arguments, filed memo of arguments.
6. **POINT:** According to the complainant, the respondents changed category of his service connection SC.No.7231430002793 from Cat-I to Cat-II without his knowledge. On the otherhand, it is the contention of the respondents that the complainant earlier filed a similar complaint before this Forum which was dismissed and he preferred an appeal and again filed another complaint before this Forum and that was also dismissed and again suppressing the real facts, the complainant filed this complaint.
7. This Forum considered the submissions of both the parties carefully. Perused the entire record. Record shows that when the ADE/DPE/Anantapur on 05.10.2019 inspected the service premises of the complainant, he noticed that the complainant was utilizing the supply for other than the purpose for which supply was sanctioned

originally i.e. he is using the supply for construction work which is commercial use though he obtained for domestic purpose and hence they booked a malpractice case against the service connection SC.No.7231430002793 and changed the category from Cat-I to Cat-II by issuing PAO Notice. Ex.R1 copy of the order of this Forum shows that the complainant challenged the PAO Order of the respondents and this Forum rejected the said complaint referring Clause.10.2 of Regulation No.03 of 2016 in view of malpractice case registered under Sec.126 of the Electricity Act against the service connection No.SC.No.7231430002793. Ex.R2 shows that the complainant preferred an appeal against Ex.R1 order of this Forum in which the Hon'ble Vidyut Ombudsman directed the respondents to pass a final order of assessment after affording a reasonable opportunity of hearing to the complainant. Record further shows that a final order of assessment was passed by the respondents as per Ex.R2 orders confirming the PAO order but the complainant did not pay the assessment amount as per FAO order. Ex.R3 order of this Forum shows that the complainant applied for a new connection but the respondents rejected his request due to non-payment of assessment amount relating to SC.No.7231430002793 and then he filed the complaint before this Forum but this Forum dismissed the complaint under Ex.R3 order. Ex.R4 shows that against Ex.R3 order of this

Forum, the complainant preferred an appeal and the Hon'ble Vidyut Ombudsman while allowing the appeal under Ex.R4 directing the respondents to issue new service connection categorically stated that "the *licensee is at liberty to take action as laid down under Paragraph 3 of Clause 4.8.1 of Regulation-05/2004 for collecting the assessment amount*". Record shows that the complainant did not pay the assessment amount inspite of the order of Hon'ble Vidyut Ombudsman vide Ex.R4.

8. On considering the entire material and the previous orders of this Forum and the Hon'ble Vidyut Ombudsman (Exs. R1 to R4), it is very clear that the respondents earlier registered a malpractice case under Sec.126 of the Electricity Act and issued final assessment order directing the complainant to pay the penalty amount and the complainant challenged the said order, that the Hon'ble Vidyut Ombudsman allowing the appeal ordered for fresh hearing but record shows that as the complainant did not appear for hearing, final assessment order was passed confirming PAO but the complainant without paying the said assessment amount applied for a new service connection but the said request was rejected and the complainant approached this Forum but his complaint was dismissed and then he preferred an appeal before the Hon'ble Vidyut Ombudsman who while directing the respondents to issue new connection, permitted the

respondents to recover the assessment amount following the procedure under Paragraph 3 of Clause 4.8.1 of Regulation. 05 of 2004 and accordingly the respondents demanded the complainant for payment of assessment amount but even today the complainant did not pay the assessment amount. On the other hand, the complainant suppressing the earlier proceedings under Exs. R1 to R4 before this Forum and the Hon'ble Vidyut Ombudsman relating to SC.No. 7231430002793, filed this complaint with false averments. Since the complainant did not pay the assessment amount as per FAO relating to SC. No. 7231430002793, the category of the said service connection from Cat-II to Cat-I cannot be ordered. The respondents as per rules only, changed the category of SC.No. 7231430002793 from Cat-I to Cat-II to the knowledge of the complainant and there is no irregularity or illegality in their action.

9. The complainant in his memo of arguments submit that the DE/Assessment issued a notice dt : 23.02.2022 to him directing to appear before him with a condition of depositing 50% of FAO amount, but he filed representation dt:24.04.2022 requesting for 10 days' time, but the DE issued second notice dt:02.05.2022 for his appearance but he filed another representation dt:08.05.2022 for getting relevant rules under the Electricity Act for payment of 50% of pre deposit amount before participating in personal hearing, but his

representation was not considered by DE and the impugned FAO was passed on 13.05.2022 without giving any opportunity to file his objections. The complainant further submit that against the FAO, he preferred revision appeal before SE/Assessments, Tirupati on 04.07.2022 by registered post and it is still pending for enquiry.

10. This Forum considered the contention of the complainant that there is no provision of depositing 50% of the assessment amount for preferring an appeal against Final Assessment order (FAO). In this connection, it is relevant to reproduce Sec.127 (1) and (2) of Electricity Act, 2003.

Sec.127 (1) : Any person aggrieved by a Final order made under Sec.126 may, within 30 days of the said order, prefer an appeal in such form, verified in such manner and be accompanied by such fee as may be specified by the State Commission, to an appellate authority as may be prescribed.

(2) : No appeal against an order of assessment under Sub Section(1) shall be entertained unless an amount equal to half of the assessed amount is deposited in cash or by way of bank draft with the licensee and documentary evidence of such deposit has been enclosed along with the appeal.

11. In view of Sec.127 (1) (2) referred supra, the complainant is supposed to deposit 50% of the assessed amount before preferring an appeal and even according to the complainant he has not deposited 50% of

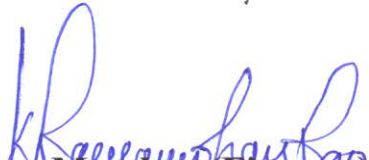


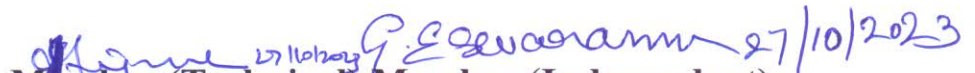
the assessed amount while preferring the alleged appeal before SE/Assessments and as such his claim that his appeal is pending before the SE/Assessments cannot be considered because that appeal is not maintainable for not making the deposit as contemplated under Sec.127(2) of the Electricity Act. Hence, the claim of the complainant that his appeal is pending before the SE/Assessments, is not valid.

12. For the aforesaid discussion, this Forum opine that there are no merits in the complaint and the complainant is not entitled for the relief prayed for and the complaint is liable to be dismissed. Accordingly the point is answered.
13. ***In the result***, the complaint is dismissed. There is no order as to costs.
14. The complainant is informed that if he is aggrieved by the order of the forum, he may approach the Hon'ble Vidyut Ombudsman, 3rd Floor, Plot No.38, Adjacent to Kesineni Admin Office, Sriramaachandra Nagar, Mahanadu Road, Vijayawada- 08 in terms of Clause 13 of Reg.No.3 of 2016 of Hon'ble APERC within 30 days from the date of receipt of this order and the prescribed format is available in the website vidyutombudsman.ap.gov.in.

Typed to dictation by the computer operator -2 corrected and pronounced in the open Forum on this 27th day of October'2023.


27/10/2023
CHAIRPERSON


Member (Finance)
27/10/2023


Member (Technical) Member (Independent)
27/10/2023

Documents marked

For the complainant: Nil

For the respondents:

Exhibit No.	Description of the document
R1	Copy of the order of CGRF, Tirupati Dt:30.11.2020 in ID No.4732020/2020-21/ Anantapur Circle.
R2	Order of the Hon'ble Vidyut Ombudsman Dt: 19.01.2021 in Appeal No.27 of 2020-21.
R3	Copy of the order of CGRF, Tirupati Dt: 28.03.2022 in C.G No.74/2021-22/Anantapur Circle.
R4	Order of the Hon'ble Vidyut Ombudsman Dt: 08.06.2022 in Representation.No.07 of 2022-23.

Copy to the

Complainant and All the Respondents

Copy Submitted to

The Chairman & Managing Director/Corporate Office/APSPDCL/ Tirupati.

The Hon'ble Vidyut Ombudsman, 3rd Floor, Plot No.38, Sriramachandra Nagar, Vijayawada-08.

The Secretary/Hon'ble APERC/Hyderabad-04.

The Stock file.

