

THE ELECTRICITY OMBUDSMAN, UTTARAKHAND

Smt. Chandrakala Nainwal
W/o Shri Bhuwan Chandra Nainwal
Bithoriya no. 01,
Lal Daat Road, Haldwani,
Distt. Nainital, Uttarakhand

Vs

The Executive Engineer,
Electricity Distribution Division (Rural),
Uttarakhand Power Corporation Ltd.
Haldwani, Distt. Nainital,
Uttarakhand

Representation No. 07/2024

Award

Dated: 09.09.2024

Being aggrieved with Consumer Grievance Redressal Forum, Kumaon Zone, (hereinafter referred to as Forum) order dated 07.02.2024 in complaint no. 09/2024 before the said Forum, against UPCL through Executive Engineer, Electricity Distribution Division (Rural), Uttarakhand Power Corporation Ltd., Haldwani, Distt. Nainital, Uttarakhand (hereinafter referred to as respondent), Smt. Chandrakala Nainwal W/o Bhuwan Chandra Nainwal, Bithoria no. 01, Laal Daat Road, Haldwani, Distt. Nainital (petitioner) has preferred this appeal for refund of Rs. 7,068.00 deposited in the month of 06/2023 against bill but respondent accounted for it against the head of additional security.

2. The petitioner Smt. Chandrakala Nainwal has preferred this representation dated 07.02.2024 and subsequent submission dated 18.03.2024 in which she has averred that she had deposited a sum of Rs. 7,068.00 online vide receipt dated 21.06.2023 against the bill, but the respondent has accounted for this amount under the head of security deposit as is evident from the aforesaid receipt issued by the department. She had approached the Forum for refund of the said amount, where her complaint was registered as complaint no. 09/2024, but the Forum dismissed her complaint vide order dated 07.02.2024. She has prayed that the aforesaid amount Rs. 7,068.00 be refunded to her.

Unsubstantiated

3. The Forum in its order dated 07.02.2024 after perusal of submissions of both parties wherein the complainant has said that she deposited Rs. 7,068.00 towards electricity bills but denying this, the opposite party submitted that the said amount was deposited against security and so this amount cannot be refunded. The Forum made observation as: -

“परिवादी द्वारा जमानत धनराशि का भुगतान करने के बाद जमानत राशि वापसी की मांग किया जाना विनियमों के विपरीत है। जमानत धनराशि संयोजन को स्थाई विच्छेदन कराये जाने के बाद ही वापस की जा सकती है। अतिरिक्त जमानत राशि माननीय नियामक आयोग के नियमों के अनुसार ही निर्धारित किये जाने का प्रावधान है। अतः यह राशि परिवादी को वापस नहीं दिलायी जा सकती, उपरोक्त चर्चा के आधार पर वाद खरिज किया जाता है।”

In view of its above observation the Forum dismissed the complaint.

4. The respondent, Executive Engineer has submitted his written statement vide letter 1602 dated 05.04.2024. Strangely perusal of this so called written statement shows that in fact it is not a written statement from the respondent but he has simply given the sequence of procedure carried out in Forum. In fact written statement from the respondent means his replies duly supported by documentary evidences wherever applicable to the petitioner's averments made in her representation, which had not been given by him, however he has given an affidavit duly notarized and a copy of the billing history, as also details of interest on security deposit and additional security deposit, which inter alia reveals that a sum of Rs. 7,068.00 was deposited as additional security.
5. The petitioner was asked to submit rejoinder by 07.05.2024, vide letter no. 1071 dated 22.04.2024. Having not received the rejoinder, a reminder was issued vide letter no. 1106 dated 20.05.2024 to submit the rejoinder by 30.06.2024. The petitioner still not submitted any rejoinder but telephonically informed that she is not interested in submission of rejoinder therefore hearing was fixed for 30.08.2024, vide letter no. 1208 dated 20.08.2024. While the petitioner did not turned up for arguments on the scheduled date 30.08.2024 but she informed through a mail dated 29.08.2024 that “I am unable to attend hearing on date 30.08.2024. Please resolved my case as per Rule” However the respondent was represented by Shri Sanjay Prasad, SDO for arguments. He could not explain anything, but simply admitted that Rs. 7,068.00 deposited by the petitioner on 21.06.2023 were accounted for under the head of

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additional security and total security in the account of the petitioner is Rs. 9,006.00. He was asked to submit necessary documentary evidences by 04.09.2024. The respondent Executive Engineer submitted a copy of OM Annexure A (page 18 of 18) having no dispatch no. and date and no signature of the issuing authority, through email dated 04.09.2024, further a statement for calculation of security based on total billed amount for the year 2022-23 has been submitted on whatsapp on the same date 04.09.2024, wherein he has worked out additional security required as Rs. 8,923.00 based on bi-monthly billing in which security deposited is shown as Rs. 1,859.00 and additional security required in the year 2022-23 has been shown as Rs. 7,068.00 which has been shown as paid by the consumer on 21.06.2023. The arguments therefore stands concluded. The date of award was fixed for 09.09.2024.

6. The documents available on file have been perused. The relevant regulation 4.2(1) and 4.2 (5) of UERC Supply Code Regulation, 2020 have also been gone through. Arguments from the respondent have been heard. It is found that the petitioner, a consumer of respondent under domestic category for 4 KW load has deposited a sum of Rs. 7,068.00 vide receipt no. 14469210623WS990002 dated 21.06.2023 issued under the head security deposit. The petitioner claimed that she had deposited the said amount against electricity bill, but a perusal of the billing history shows that no bill for the said amount had ever been issued, however, as per the statement for security deposit for the year 2022-23 submitted by the respondent, additional security for the year 2022-23 has been worked out as Rs. 7,068.00 on bi-monthly billing basis. The same is also confirmed from the statement got retrieved by this office from UPCL's sub division office, Vasant Vihar, Dehradun. Further statement of calculation for security amount for the year 2023-24 was also got retrieved from the same office when one monthly billing cycle was in force. According to this statement monthly average bill amount during the year 2023-24 was Rs. 2,229.22 and accordingly security deposit required as per Supply Code has been worked out as Rs. 4,458.00 against which available security deposit has been shown as Rs. 9,006.00. As per this statement an excess sum of Rs. 4,548.00 (Rs. 9,006.00 – Rs. 4,458.00) stands deposited by the petitioner with UPCL against security deposit required for the year 2023-2024.

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7. As regards Forum's order denying refund of excess security deposit, the relevant UERC regulation 4.2 (1) and 4.2 (5) are required to be referred to, which are reproduced below:

"4.2 (1) Balance of Security Deposit as on 31st March of the previous year shall be 'Existing Security Deposit'. Consumer is required to maintain a sum equivalent of estimated average consumption of 'N'+1 months of previous financial year or the existing security deposit with the Licensee, whichever is higher, as security deposit ('Required Security Deposit') towards any delay or default in payment. Here 'N' is the number of months in the billing cycle approved in the Tariff Order applicable for preceding year.

4.2 (5) Where Existing Security Deposit computed as per Clause (1) above is found to be equal to or greater than the Required Security Deposit, the interest accrued on the Existing Security Deposit up to 31st March of the previous year shall be refunded to the consumer through adjustment in the electricity bill upto 31st July of current year."

As regards Annexure A submitted by the respondent it is clarified that it is UPCL's OM no. 390 dated 25.01.2024 regarding procedure for recovery of additional security deposit especially in installments, which is not a case here and therefore this OM is not relevant in this case.

8. As per sub regulation 4.2 (1) the security deposit required shall be equivalent to estimated average consumption of N+1 months of previous financial year. In the instant case the respondent has worked out total security for the financial year 2022-23 as Rs. 8,927.00 based on bi-monthly billing cycle and after deducting security already deposited Rs. 1,859.00, additional security required for the year 2022-23 has been worked out as Rs. 7,068.00 and have rightly accounted for this amount deposited by the petitioner vide receipt dated 21.06.2023, but for the financial year 2023-24 when billing cycle was one month the required security has been worked out as Rs. 4,458.00 against which available security deposit with the department was Rs. 9,006.00, (Rs. 1,859.00 security already deposited + Rs. 79.00 interest + Rs. 7,068.00 deposited on 21.06.2023) this obviously includes Rs. 7,068.00 deposited by the petitioner on 21.06.2023. And as such the security deposited is in excess by Rs. 4,548.00 (Rs. 9,006.00 – Rs. 4,458.00) by virtue of sub regulation 4.2 (5) of Supply

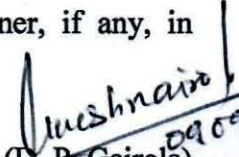
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Code, this excess amount is refundable on the basis of analogy. It would therefore be reasonable and in the interest of justice if this excess amount is refunded to the petitioner of course by way of adjustment in future electricity bill (s) starting from the first bill to be issued after the date of this order and through subsequent bill (s) if necessary till the aforesaid excess amount is adjusted.

Order

In view of above deliberations and regulatory provisions, the respondents are directed to refund excess amount of security deposit Rs. 4,548.00 by way of adjustment in future electricity bills as aforesaid. The representation is allowed. Forum order is set aside, not being consistent with relevant regulations. The respondents are however at liberty to work out the total security required for the financial year 2024-25 and work out the additional security required to be deposited by the petitioner, if any, in accordance with the aforesaid sub regulation 4.2 (1).

Dated: 09.09.2024


(D. P. Gairola)
09.09.2024
Ombudsman