

THE ELECTRICITY OMBUDSMAN, UTTARAKHAND

Shri Pankaj Saxena
S/o Shri Jai Prakash Saxena,
B-4, Lok Vihar Colony, Rampur Road,
Rudrapur, Distt. Udham Singh Nagar,
Uttarakhand

Vs

The Executive Engineer,
Electricity Distribution Division – 1,
Uttarakhand Power Corporation Ltd.
Rudrapur, Distt. Udham Singh Nagar,
Uttarakhand

Representation No. 51/2023

Order

Dated: 23.02.2024

Being aggrieved with Consumer Grievance Redressal Forum, Udham Singh Nagar Zone, (hereinafter referred to as Forum) order dated 26.10.2023 in complaint no. 141/2023-24 before the said Forum, against UPCL through Executive Engineer, Electricity Distribution Division - 1, Uttarakhand Power Corporation Ltd., Rudrapur, Distt. Udham Singh Nagar, Uttarakhand (hereinafter referred to as respondent), Shri Pankaj Saxena S/o Shri Jai Prakash Saxena, B-4, Lok Vihar Colony, Rampur Road, Rudrapur, Distt. Udham Singh Nagar (petitioner) has preferred this appeal for inter alia setting aside Forum order dated 26.10.2023 in complaint no. 141/2023-24.

2. The instant appeal has been preferred by the petitioner wherein he has averred as follows:
 - i. This appeal is preferred as the Forum has dismissed his complaint out rightly without appreciating and considering the documents placed on record judiciously.
 - ii. The referred complaint was instituted before Forum against raising arbitrary, illegal, unjustified and unwarranted demand through monthly electricity bill, which in no way can be related to the premises of the petitioner.
 - iii. The factual matrix leading to filing the petition are detailed below:



- a. The petitioner is a domestic consumer residing at Lok Vihar colony, Rudrapur.
 - b. He has a connection no. 897A705112089 for 5 KW contracted load at his premises.
 - c. He received a bill dated 18.02.2023 for exorbitant amount Rs. 44,130.00 against monthly consumption.
 - d. He immediately visited respondent's office to enquire about the said bill, however no cogent explanation was given by the respondent.
 - e. When grievance was not settled he approached Forum. The Forum directed him to contact respondent for necessary action.
 - f. When grievance was not redressed he sent a legal notice to the respondent.
 - g. On non-redressal of grievance by the respondent and the Forum, he raised a grievance petition before Lok Adalat, Udham Singh Nagar. where his complaint was registered as 173/2022. His petition was dismissed by the Lok Adalat on the ground that remedy is available through CGRF under Electricity Act, 2003, so he approached Forum with complaint no. 141/2023-24, which was dismissed by the Forum vide order dated 26.10.2023.
- iv. Being aggrieved with Forum order, the present appeal is being preferred on the following amongst other grounds:
- a. Because the impugned bill has been issued in a most illegal, obscure, erroneous, arbitrary, unwarranted, perverse, irregular and unjust manner in clear violation of the settled proposition of law resulting in manifest injustice and causing serious prejudice to the petitioner and hence the same deserves to be quashed and set aside.
 - b. Because as per settled proposition of law a person cannot be penalized or asked to pay undue amount by the state without the same actually having been fallen due and is not permissible in law.
 - c. Because no tampering of the metering system was done by him and also no such allegation has been leveled by the respondents.
 - d. Because in case no. 79/202-22 was registered by him against the respondent, wherein Fom in their judgment dated 02.02.2022 held that the grievance of the petitioner has been settled, wherein it has been categorically written that "*Executive Engineer through letter no. 452*"

dated 01.02.2022 have informed the Forum that the bill has been revised as per departmental rules for an amount of Rs. 17,138.37 and the said amount has been paid by the petitioner."

That respondent also submitted copy of ledger clearly established that the petitioner has cleared all his dues till 01.02.2022.

- e. Because when all the grievances has been settled, there is no occasion for the respondent to raise exorbitant amount in the impugned bill which in no way can be attributed to the premises of the petitioner.
- v. That once the monthly charges for the periods up to February 2022 was settled in line with Forum's order which is admittedly paid by the petitioner. The charges for the period prior to the period of order which was categorically covered in the order cannot be revised at this stage. Revision of the bill during the said period is illegal.
- vi. That the Forum in fact through its order dated 26.10.2023 has revised its judgment rendered under order dated 02.02.2022 in complaint no.79/2021-22 through which the dispute for the period was well settled. That the Forum failed to realize that they have gone beyond their jurisdiction as no power for review of their own judgment has been vested in them.
- vii. That the Forum did not appreciate that if the respondent are revising the bill for the period which has been settled vide Forum's order dated 02.02.2022, the respondent is actually violating the judgment clandestinely, which is binding on them. That the Forum did not realize that the respondent has to approach the Hon'ble High Court and challenge the order, if they proposed any modification or revision of the order dated 02.02.2022, passed by Forum and also if they want to charge anything for the period regarding which the settlement has already been done and not in dispute.
- viii. That under the above circumstances the present appeal has been preferred before Hon'ble Ombudsman for necessary relief and redressal with humble and respectful submission that the impugned assessment is liable to be quashed and set aside by the Hon'ble Ombudsman.

Prayer:

In the premises aforesaid, it is most humble and respectfully prayed that the Hon'ble Ombudsman may graciously be pleased to-



- a) Call for records of the case for perusal,
- b) Quash and set aside the impugned order dated 26.10.2023 in complaint no. 141/2023-24, being the same illegal, arbitrary, perverse, malafide and unjust.
- c) Issue necessary directions to the respondent to revise the bill for the entire period, but excluding period prior to 01.02.2022, without LPS.
- d) Pass any other order or direction, which this Hon'ble court may deem fit and proper, on the facts and circumstances and the interest of justice.
- e) Direct the respondent not to disconnect the supply of electricity till the disposal of the instant dispute at hand.

3. Relying upon opposite party's submission vide letter dated 25.10.2023 wherein it was reported that in compliance to Forum's order dated 02.02.2022 in earlier complaint no. 79/2021-22 based on reading 2223 of new meter a revised bill for Rs. 17,138.37 was issued. It was further reported that in checking of the said bill reading 2223 was shown in the bill for 12/2021 up to which the bill was sent. but actual recorded reading that time was more than 2223. In order to eradicate the mistake Rs. 4,645.20 were reduced in the bill w.e.f. the date of check meter finalization 15.06.2021 to 15.09.2023, where after a sum of Rs. 42,424.80 was outstanding against the consumer up to the month of 10/2023. The Forum also observed that the opposite party has substantiated his submissions with calculation of the revised bill, consumer billing history and consumer ledger. The Forum was of the view that the department has solved the consumer's complaint and in view of its aforesaid observations the Forum has disposed off the complaint vide their order dated 26.10.2023 in complaint no. 141/2023-24.

4. The respondent Executive Engineer has submitted his written statement along with affidavit under oath vide letter dated 12.12.2023. Point wise reply has been submitted as follows:

- i. ..
- ii. A written statement is being submitted in case no. 51/2023.
- iii. In compliance to Forum's order dated 02.02.2022 in consumer's earlier complaint no. 79/2021-22 consumer's bill of 12/2021 (12.12.2021) was revised to Rs. 17,138.37 on a reading of 2223. Recorded in the new meter, which was duly paid by the consumer.

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- iv. Where after a bill for the period 13.12.2021 to 18.02.2022 was issued for a sum of Rs. 44,130.00 on 18.02.2022 at present reading 9079.
- v. A complaint was filed by the consumer no. 173/2022 before Lok Adalat Rudrapur for correction of the bill which was dismissed by Lok Adalat vide order dated 02.08.2023.
- vi. The consumer filed a complaint no. 141/2023-24 before the Forum for correction of the bill.
- vii. During the course of checking of the bill it was found that the bill for 12/2021 was issued on reading 2223, while the actual reading recorded in the meter in the month of 12/2021 was more than 2223 (however the actual reading appearing the meter has not been mentioned).
- viii. For finding a solution of the bill for 12/2021 his bill from 15.06.2021 to 15.09.2023 (After finalization of check meters and w.e.f. the date of installation of check meter) was revised according to which the total outstanding corrected dues were Rs. 33,617.00.
- ix. In the billing system dues on 15.09.2023 were appearing as Rs. 38,262.00 so based on corrected dues based on manual calculations Rs. 4,645.20 were reduced.
- x. Total outstanding dues till 14.10.2023 including Rs. 33,616.80, dues up to 15.09.2023 and Rs. 8,808.00 dues on 14.10.2023 for the current bill are Rs. 42,424.80, which was submitted before the Forum.
- xi. Forum passed order on 24.10.2023 in complaint no. 141/2023-24.
- xii. The petitioner applied for making payment of the bills till July 2023 amounting to Rs. 1,16,755.00 in installments. In compliance to SE, EDC Rudrapur's OM no. 4063 dated 29.08.2023 order for payment of the dues Rs. 1,16,755.00 till July 2023 in 3 installments was issued vide his OM no. 3091 dated 29.08.2023.
- xiii. The petitioner made payment of first 2 installments within time but did not pay the amount of 3rd installment so facility of installment was withdrawn vide OM no. 4097 dated 10.11.2023.
- xiv. Petitioner's bill for the referred period had already been revised by his office.
- xv. At present his bill is correct as per installed meter reading and outstanding dues up to the month of 11/2023 (14.11.2023) against the petitioner are Rs. 46,230.00, whose payment is pending.

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5. The petitioner has submitted a rejoinder dated 20.01.2024 along with an affidavit.

- i. At the outset he has denied the contents of respondent's written statement specifically being devoid of merits, baseless and no cogent explanation except to the extent which are specifically and categorically admitted herein in the forthcoming paragraphs.
- ii. Point no. ii, iii, v, viii, ix, x, xi, xv, xvi contents of these paras are denied or no comments to be given. Contents being wrong false.
- iii. Contents of para iii are not true as presented. The Forum passed order dated 02.02.2022 in complaint no. 79/2021-22. Respondent's submission that the bill was adjusted for the period 12/2021 is wrong false and denied in totality. Aforesaid order explicitly states that ***"Executive Engineer vide letter no. 452 dated 01.02.2022 informed that the bill has been revised in accordance with procedure of department and consumer has submitted the bill."*** Revising of the bill already settled by the Forum is non compliance of Forum's order and liable for action under section 142, 146 and 149 of Electricity Act, 2003.
- iv. Contents of para v is admitted.
- v. Contents of para vi is admitted to the extent that the complaint was registered with Forum with no. 79/2021-22 for revising the bill for the period subsequent to the earlier order dated 02.02.2022.
- vi. The Forum has no authority to review their own judgment and had gone beyond its jurisdiction to dismiss the complaint without perusing the fact of the case and without considering the averment.
- vii. Content of para xii is admitted that the petitioner was allowed to pay the charges in 3 installments.
- viii. The content of para xiii is admitted to the fact that the 3rd installment was not paid. It is pertinent to bring on record that the respondent had disconnected the supply and cost the petitioner to pay the amount which was shown as due legally.
- ix. The content of para xvi it is prayed that the Ombudsman would be pleased to take on record this rejoinder and allow the petitioner to argue the matter, both on averment made in the appeal as well as countered to the written statement in this rejoinder.

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6. Hearing in the case was held on pre-decided date 16.02.2024. Petitioner appeared himself and the respondent was represented by Shri Satish Chandra Joshi AE(R) and Shri Ajay Magrigar TG (I). Arguments were concluded and 23.02.2024 was fixed for pronouncement of order.
7. Arguments from both parties were heard, documents available on file were perused. Forum's case file was also summoned as requested by the petitioner and the same has also been perused. Following facts of the case has come to notice.
 - i. A 5 KW domestic connection no. 897A705112089 was released at the premises of the petitioner on 15.06.2002.
 - ii. It has come to notice that before filing complaint 141/2023-24 decided by the Forum vide order dated 26.10.2023. Another complaint no. 79/2021-22 was also filed by the complainant before the Forum which was decided by the Forum vide its order dated 02.02.2022. In the said complaint consumer's bill up to the month of 12/2021 was ordered to be revised and the same was accordingly revised by the respondent for Rs. 17,138.37 up to the reading 2223. The same revised bill was duly paid by the petitioner on 01.02.2022 as the petitioner agreed to this revised bill and as such there was no dispute or outstanding dues against the petitioner till 12/2021 (12.12.2021).
 - iii. The instant appeal is preferred against Forum order dated 26.10.2023 in his complaint no. 141/2023-24. The respondent in compliance to Forum's order revised petitioner's bill from 15.06.2021 to 15.09.2023 as is evident from a calculation sheet attached with written statement, according to which after waiver of Rs. 4,645.20 after adjustment of payments made by the petitioner from 15.06.2021 to 15.09.2023 amounting to Rs. 130864/- and assessment for fast running of meter by 11% amounting to Rs. 3,266.00 as per check meter study conducted from 16.03.2021 to 22.06.2021, the net payable dues against the consumer has been worked out as Rs. 38,262.00 as on 09.10.2023.
 - iv. The petitioner has objected to Forum's order on the grounds that in the said order revised bill was to be given from 15.06.2021 to 15.09.2023. His objection is that the Forum has gone beyond its jurisdiction in passing this order as dispute up to the month of 12/2021 had already been resolved vide its order dated 02.02.2022 and according to which the amount of the revised bill Rs. 17,138.37 had already been paid and therefore any demand from



15.06.2021 to 12/2021 (12.12.2021 cannot be raised and is not payable by him. His objection is sustainable and issue of this revised bill for the period 15.06.2021 to 15.09.2023 cannot be upheld being inconsistent with regulations and the same is therefore ordered to be withdrawn.

- v. It will be logical, justified and in the interest of justice that a revised bill for the period 13.12.2021 to 15.09.2023 on metered consumption during the said period and on appropriate tariff be issued after adjustment of Rs. 3,266.00 on account of fast running of the old meter by 11% as per check meter study conducted from 16.03.2021 to 22.06.2021 and adjustment of amount deposited by the petitioner from 13.12.2021 to 15.09.2023 instead of Rs. 1,30,864.00 admittedly deposited by the petitioner from 15.06.2021 to 15.09.2023 as allowed in the calculation sheet of revised bill from 15.06.2021 to 15.09.2023 as submitted with the written statement. No LPS shall be charged in the revised bill to be issued now. The respondents are directed to issue a revised bill accordingly within 15 days from the date of this order. Bills issued after 15.09.2023 need not be revised as these bills have been issued on metered consumption as is evident from consumer billing history.

8. Forum order dated 26.10.20203 passed in complaint no. 141/2023-24 stands modified as per this order. The petition is allowed.

Dated: 23.02.2024


(Subhash Kumar)
Ombudsman