

THE ELECTRICITY OMBUDSMAN, UTTARAKHAND

Shri Devidutt Joshi
S/o Late Sh. Haridutt Joshi,
Hotel Kapeesh, Hydel Gate,
Nainital Road, Kathgodam,
Nainital, Uttarakhand

Vs

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

Representation No. 07/2022

Order

Dated: 25.04.2022

Being aggrieved with Consumer Grievance Redressal Forum, Kumaon Zone (hereinafter referred to as Forum) order dated 20.10.2016 in his complaint no. 158/2016 and order dated 26.11.2021 in his complaint no. 82/2021 in respect of his service connection no. 380K00002611, before the said Forum, against UPCL through Executive Engineer, Electricity Distribution Division (Urban), Haldwani, Nainital (hereinafter referred to as respondent) Shri S/o Shri Devidutt Joshi, Hotel Kapeesh Hydel Gate, Nainital Road, Kathgodam, Distt. Nainital has preferred this petition for redressal of his grievance.

2. The petitioner Shri Devidutt Joshi has averred as follows in his petition/appeal dated 12.01.2022. He has stated that he is an Ex-army person and a senior citizen. He is running a hotel named as Hotel Kapeesh where connection no. 380K00002611 exists for 30KW/36KVA contracted load. He has submitted that:-
 - i. The department has raised a demand of Rs. 24,896.00 for 4750 unit consumption for the period 26.03.2016 to 21.07.2016 for slow running of meter by 32.85% due to allegedly Y phase missing. A complaint against which was made to the Forum which was registered as complaint no 158/2016 in the

Forum, however no relief was given by the Forum and meter was also not replaced.

- ii. No dues were outstanding against him till 31.07.2021.
- iii. Again the department checked the meter on 13th August 2021 and alleged that R and Y phase were missing.
- iv. No tampering with the meter seals was found by the checking person.
- v. On the alleged R & Y phase missing, assessment for two years from 13.11.2019 to 13.08.2021 for a sum of Rs. 1,01,691.00 was again raised. Complaint against which was made to CGRF which was registered as complaint no. 82/2021. The Forum granted a very nominal relief by reducing the assessment amount from Rs. 1,01,691.00 to 98,802.00 which is not acceptable to him.
- vi. He has submitted that delayed intimation of phase missing by the department is gross carelessness on their part and is also doubtful and against consumer's interest.
- vii. The entire assessment amount pertains to Covid-19 period. He has requested that his problem be resolved keeping in view his aforesaid submissions and in view of following points:-
 - a) The demand Rs. 1,01,691.00 raised by the department for the period of Covid-19 may be quashed.
 - b) Till disposal of the case the assessment amount 98,802.00 be shown separately in the bills.
 - c) The petitioner has also included a case of connection no. 369BR23120427 for a 5KW load for agriculture purpose in the name of his wife Smt. Munni Joshi at village Hazira, Bazpur, against District Consumer Protection Forum Udham Singh Nagar order in complaint no. 86/2018.

It is clarified that this part of the petition is not admissible firstly because in the petition two different cases in the name of two different consumers are not allowed and secondly, she had already approached the District Consumer Protection Forum under complaint CC86/2018 which had duly been decided by the said Protection Forum vide order dated 19.09.2019 against which she had

filed an application dated 22.02.2022 before the Ombudsman which was duly disposed off vide letter no. 408 dated 25.02.2022 wherein she was advised that, appeal against District Consumer Protection Forum's order can only be filed before Consumer Dispute Redressal Commission generally known as the State Commission.

In view of above clarification the aforesaid case of Smt. Munni Joshi shall not be dealt with in this order.

3. Forum order dated 20.10.2016 in complaint no. 158/2016

The Forum after perusal of the case and hearing the parties concluded that the bill amounting to Rs. 24,896.00 raised by the respondent vide their letter no 2754 dated 05.08.2016 for slow running of meter by 32.85% on the basis of checking report dated 21.07.2016 was correct and accordingly dismissed the complaint vide their order dated 20.10.2016.

4. Forum Order dated 26.11.2021 in complaint no. 82/2021

The Forum after perusal of the records regarding assessment of Rs. 1,01,691.00 raised by the respondent on the basis of checking dated 13.08.2021 partially allowed the complaint with the direction that in case LPS is included in the amount of assessment the same may be deleted.

5. The respondent Executive Engineer has submitted his written statement vide letter no. 762 dated 25.02.2022. He stated that connection no. 380K000021611 for 36KVA load exists in the name of Sh. Devidutt Joshi (Hotel Kapeesh) at Hydell Gate, Nainital Road, Kathgodam, Distt. Nainital, his point wise submissions are as follows:-

- i. From the checking report dated 21.07.2016 at consumer premises by YMPL it came to notice that voltage on R phase was not being recorded with effect from 26.03.2016 resulting into slow running of meter by 32.85%. Due to R phase missing, bill on the recordings of only two phases were being issued from 26.03.2016 to 21.07.2016. So an assessment for Rs. 24,896.00 for 4,750 units which could not be recorded in the meter and thus escaped billing was justified.

- ii. Periodical checking at the premises of the consumer is done as per departmental rules and any shortcoming or defect found in the metering in such checking the same is set right.
 - iii. Again checking of the meter of the petitioner was done on 13.08.2021 by M/s Mobinear a company hired by UPCL wherein R & Y phases were missing due to copper aluminum joined oxidation on wire. Accordingly assessment of Rs. 1,01,691.00 was raised and intimated to the consumer vide letter no. 2542 dated 19.08.2021
 - iv. Checking of the meter is a departmental procedure and no advance intimation for such checking is required to be given to the consumer. The fact that R & Y phases were missing due to oxidation on voltage wire was established from MRI tamper report dated 13.11.2019.
 - v. It is clear that 100% consumption was not being recorded in the meter due to R & Y phase missing.
 - vi. Regular monthly bills are being issued to the consumer but the phenomenon that R & y phases were missing due to which 100% consumption was not recorded in the meter came to the notice only in the checking dated 13.08.2021.
 - vii. Any fault that might have occurred in the meter can only be found out from periodical checking by the department.
 - viii. The additional amount added in the bill is the cost of the energy that escaped billing.
 - ix. The assessment for R & Y phase missing has been raised for the period which has no concern with Covid-19.
6. The petitioner has submitted a rejoinder dated 04.03.2022. He has inter alia submitted that the department was well aware that as a result of the checking by the department in the year 2016, he had paid Rs. 24,896.00 towards the assessment raised by the department. The same checking was again carried out by the department without any intimation. No transparency was observed and also no opportunity was given to understand the technicality and without which the department is not entitled to raise any demand. Assessment bill was raised for a period of 04 months from 26.03.2016 to 21.07.2016 in the year 2016 and again an assessment bill was raised in year 2021 for a period of 02 years from 13.11.2019 to 13.08.2021. He has stated that he does not

understand any technicality regarding working of the meter. He has further stated that due to Covid-19 there was no consumption of electricity up to the extent they raised the bill. Being a senior citizen he has stated that he is not able to withstand such a burden.

7. Hearing in the case was held on scheduled 18.04.2022 the petitioner appeared himself and argued his case; respondent was represented by Shri Neeraj Pandey SDO. The petitioner apart from verbal submission also submitted a written argument in which he has stated that Rs. 24,896.00 against the assessment vide letter dated 05.08.2016 were deposited and full amount of the assessment Rs. 1,01,691.00 was also deposited by him along with LPS total 1,12,284.00 were deposited on 30.03.2022 as his supply was disconnected on 29.03.2022 at 5:30 pm, receipts have also been enclosed. During hearing the petitioner submitted that no check meter was installed at his premises at both the occasions to ascertain the extent of less recording of energy in the meter. Respondent representative could not adduce any sealing certificates to show that check meter study was conducted at both the occasions to ascertain the extent of slow running or less recording by the meter. Due to the phenomenon of missing voltage found in both the checking dated 21.07.2016 and 13.08.2021, he however submitted an affidavit dated 03.03.2022 and a copy of letter no. 762 dated 25.02.2022 which is WS and had already been submitted.
8. Records available on file have been perused and arguments of both parties were heard it is borne out that a checking as per sealing certificate 21.07.2016 was carried out by YMPL in which voltage on R phase was found zero as recorded in the sealing certificate and current on this phase was found 0.10. After removing the oxidation voltage on R phase was found 236 volt but still current on R phase was found 0.10 the same as it was before removal of oxidation as mentioned in the sealing certificate, which is not understood. However, without conducting any check meter study to ascertain the percentage of less recording by the meter, if any, due to missing voltage at R phase assessment amounting to Rs. 24,896.00 for slow running of meter by 32.85% has been raised and intimated to the petitioner vide letter no. 2754 dated 05.08.2016. As per WS the period of assessment is from 26.03.2016 to 21.07.2016 which was duly paid by the petitioner as is evident from the receipts submitted by him.

Again a checking of the same meter was conducted on 13.08.2021 vide sealing certificate no. 400/18 wherein R & Y phase voltage were found missing and without conducting a check meter study this time also to ascertain the percentage of less recording by the meter due to voltage missing on R & Y phase as reported in the checking dated 13.08.2021. Assessment Rs. 1,01,691.00 was raised for the period from 13.11.2019 to 13.08.2021 and intimated to the petitioner vide letter no. 2542 dated 19.11.2021 which was duly paid by him along with LPS on 30.03.2022 under pressure as his supply was disconnected on 29.03.2022 and was restored only after payment against the assessment bill in full with LPS amounting to Rs. 1,12,824.00 as per receipts submitted by the petitioner during hearing.

9. As no check meter study was conducted by the respondents on both the occasions to ascertain the percentage of less recording by the meter, if any, due to missing voltage on R phase as per checking dated 21.07.2016 and voltage missing on R & Y phases as per checking dated 13.08.2021, the assessments amounting to Rs. 24,896.00 as per letter no. 2754 dated 05.08.2016 and Rs. 1,01,691.00 raised vide letter 2542 dated 19.08.2021 respectively are arbitrary and illegal and without any basis and are thus held null and void. Both the assessments are therefore hereby quashed. The respondent is directed to refund the total amount deposited by the petitioner against both the above arbitrary assessments, as per receipts mentioned above, by way of adjustment in the coming regular monthly bills. The consumer's ledger be corrected accordingly. The petition is allowed and Forum Order is set aside.

Dated: 25.04.2022

(Subhash Kumar)
Ombudsman