

THE ELECTRICITY OMBUDSMAN, UTTARAKHAND

Smt. Manjri Devi
W/o Shri Bhagchandd,
Ward No. 4, Nagar Panchayat,
Purola, Uttarakhand

Vs

The Executive Engineer,
Electricity Distribution Division,
Uttarakhand Power Corporation Ltd.
Badkot, Distt. Uttarkashi, Uttarakhand

Representation No. 23/2022

Order

Dated: 10.08.2022

Being aggrieved with Consumer Grievance Redressal Forum, Uttarkashi/Tehri Zone (hereinafter referred to as Forum) order dated 21.04.2022 in her complaint no. 128/2021 before the said Forum, against UPCL through Executive Engineer, Electricity Distribution Division, Badkot, Distt. Uttarkashi (hereinafter referred to as respondent) Smt. Manjri Devi W/o Shri Bhagchand, Ward no. 4 Nagar Panchayat, Purola, Uttarkashi has preferred this petition for issue of justified orders in the matter.

2. The petitioner, Smt. Manjri Devi has preferred this appeal dated 16.05.2022 against Forum order dated 21.04.2022 wherein she has averred as follows:

- i) A connection was released at her residence by UPCL staff in the year 2014-15, the same staff in the year 2019-20 has issued a bill amounting to Rs. 16,277.00 on the grounds that the connection for domestic use was being found used for commercial purpose, she has submitted that no information about this was ever given to her while she has been paying bills regularly from 2014-15 to 2019-20.
- ii) In the Forum order an assessment of Rs. 16,277.00 is mentioned as an assessment for commercial use as per SDO Purola's inspection report. She has submitted that no information was given to her about SDO's inspection, neither she was informed about the assessment. The amount was directly

added in the bill. She requested the SDO on 12.02.2021 and then to Executive Engineer on 25.03.2021 for disposal of the assessment, no action was however taken by the officers on her application. In fact assessment bill should have been sent separately from the regular monthly bill. Thus the department has committed a mistake by not sending separate assessment bill and not informing her about such a checking on the basis of which the assessment has been raised. Fabricated facts have been submitted by the department even before the Forum claiming that 50% of the assessment was not deposited. She has pleaded that how 50% of the assessment could have been deposited when no separate assessment bill was issued so it was not known that as to what was the assessment amount. She has requested that a justified order be issued in her case and the assessment wrongly raised be withdrawn.

3. A complaint was received in the Forum from Smt. Manjri Devi W/o Shri Bhagchand regarding alleged assessment of Rs. 18,500.00 on her connection no. BD23205331406 for 1 KW under small non domestic category. The opposite party submitted before the Forum that a checking was carried out on the premises of the complainant by SDO on 31.07.2019 wherein the consumer was found using the connection for non domestic use on her domestic connection which is an unauthorized use of electricity under section 126 of Electricity Act, 2003 and as such an assessment of Rs. 16,277.00 was raised and on nonpayment of the said assessment amount it was added in the bill. The opposite party argued before the Forum that Forum cannot hear this case under section 127 of the Act. And only the appellate authority prescribed under section 127 (1) can hear this case. After hearing both parties and perusal of the records the Forum was of the view that the subject matter of the complaint being out of Forum's jurisdiction, they cannot decide the case and have disposed off the complaint without passing any order on merit on 21.04.2022, however, they directed the opposite party, Executive Engineer to again look into the matter and take appropriate action as per rule in the interest of the consumer.
4. The respondent, Executive Engineer has submitted a written statement vide his letter no. 306 dated 22.06.2022 along with an affidavit under oath, wherein he has made point wise submissions as follows: -

- i) My name and address is correct.
- ii) A connection no. BD63206331406 exists in the premises of the consumer Smt. Manjri Devi W/o Shri Bhagchand under “श्रेणी – अधरेलू – भार 1 कि० वा० स्थापित है।” with installed meter no. 32198052
- iii) A complaint was lodged by the consumer before the Forum on 03.03.2022, wherein she requested the Forum to waive off the assessment (अधिरोपित अर्थदण्ड) raised by the department.
- iv) In her complaint no. 128/2021 the Forum passed order on 21.04.2022 after hearing both parties. The Forum observed it a case of misuse of tariff (धरेलू संयोजन से वाणिज्यिक उपभोग किया जाना). As the subject matter was not within Forum’s jurisdiction, the Forum directed the opposite party to look into the matter again and take necessary action as per rules in consumer’s interest.
- v) As directed by the Forum the case was re-examined by the department and found that as the consumer was found using her domestic connection for commercial use, which was unauthorized use so assessment raised as per rules. A copy of calculation sheet of assessment has been adduced. As the consumer did not pay the assessment amount of Rs. 16,277.00, it was added in the bill, which has yet not been paid by the consumer till date.
- vi) Regarding the consumer’s submission before the Hon’ble Ombudsman that no information about the checking was given to her, the respondent has denied the consumer’s statement and have submitted that at the time of writing the checking report she was duly informed by the SDO that an assessment for misuse of tariff shall be raised as she has been using her domestic connection for commercial use. The checking report duly carries her signature, so her allegation is false.
- vii) As no revision of the assessment was possible so no action was taken for revision of the assessment and she was accordingly informed verbally. The Forum was also duly apprised that there is no possibility of revision of the assessment.

- viii) As the consumer Smt. Manjri Devi has been using her domestic connection no. BD63206331406 for 1 KW load for commercial use causing financial loss to department for misuse of tariff, as such a penalty of Rs. 16,277.00 was imposed on her to recover the loss. The respondent has further submitted that as the subject matter of the petition was beyond Forum's jurisdiction as well as that of the Hon'ble Ombudsman, so he has requested that the appeal be disposed off.
5. The petitioner has submitted a rejoinder dated 11.07.2022 along with an affidavit under oath. This rejoinder is mainly a repetition or reiteration of the contents of her petition except that she has denied that checking report no. 255 does not carry the signatures of herself or her representative and she has held that this is a fabricated document.
6. Hearing in the case was fixed for 25.07.2022, which was postponed for 05.08.2022 on petitioner's request. The hearing was therefore held on 05.08.2022. Shri Jabar Singh Aswal, son in law of the petitioner, duly authorized by her vide letter dated 04.08.2022 put up during hearing appeared on behalf of the petitioner. Shri Sanjeev Kumar Accountant (Revenue) appeared on behalf of the respondent. Both parties argued their respective case. The arguments were concluded with mutual consent, 10.08.2022 was fixed for orders.
7. Documents available on file has been perused, arguments from both parties were heard relevant UERC regulations were also gone through. As from the documents available it was not clear as to for which category the petitioner has applied for a connection, so the respondent were asked to submit a copy of the application vide which the petitioner had applied for the connection. This document clearly shows that the petitioner has applied for a 1 KW domestic connection at her residence on 01.12.2014. However the consumer billing history adduced by respondent and available on record, shows that 1 KW connection was released on 25.12.2014 under the category STN 2 5(small non domestic up to 4 KW). It is therefore clear that although she had applied for 1 KW domestic load but the respondent as per billing history has been billing the connection under small non domestic category. Further the respondent Executive Engineer, in his written statement against point no. 2 has clearly stated that "उपभोक्ता श्रीमती मंजरी देवी, पत्नी श्री भागचन्द (भोला) वार्ड संख्या -04,

नगर पंचायत पुरोला जिला – उत्तरकाशी के परिसर पर विद्युत संयोजन संख्या बीडी63206331406 श्रेणी –अधरेलू भार – 1 कि0वा0 स्थापित है जिस पर विद्युत मीटर संख्या 32198052 स्थापित है।” Further a perusal of the bills adduced by the respondent, shows that all these bills have been issued under rate schedule “RTS-2 non-domestic” under sub category “Small non-domestic consumers” although supply type on these bills has been mentioned as “10”. Such being the case, the respondents have wrongly framed a case of unauthorized use of electricity in reference of SDO checking report dated 31.07.2019 and the respondent have wrongly raised an assessment of Rs. 16,277.00 for unauthorized use of electricity under section 126 of the Act, on the basis of the aforesaid checking report. In fact it is not a case of unauthorized use of electricity under section 126 or misuse of tariff because as per details given in the billing history, as well the bills, the petitioner was being billed on tariff applicable to small non domestic category. Moreover the respondent himself admitted in his above referred written statement that it is a connection under “श्रेणी अधरेलू”. Although she had applied for domestic connection, as such the consumer has not committed any irregularity or made any unauthorized use of electricity. However the respondent have wrongly framed a case of unauthorized use of electricity and have wrongly raised the assessment without seeing their own billing history, bills which shows billing under the category small non domestic, and their own submission in written statement, such being the case the consumer is not liable to pay any assessment as she has not committed any irregularity or unauthorized use of electricity. The checking report dated 31.07.2019 as well as assessment amounting to Rs. 16,277.00 raised by the respondent on the basis of the said checking report are held null and void. The respondents are directed to withdraw the assessment and any LPS levied thereon. The petition is allowed. Forum order is set aside.

8. As deliberated above the subject matter of the petition is within the jurisdiction of CGRF/Ombudsman mechanism for not being a case of unauthorized use of electricity under section 126 of the Electricity Act, 2003.

Dated: 10.08.2022

(Subhash Kumar)
Ombudsman