

THE ELECTRICITY OMBUDSMAN, UTTARAKHAND

Shri Shiv Kumar Sahani
S/o Manohar Lal Sahani
Chunna Bhatta, Adhoiwala,
Dehradun, Uttarakhand

Vs

The Executive Engineer,
Electricity Distribution Division (North),
Uttarakhand Power Corporation Ltd.
18, EC Road, Dehradun, Uttarakhand

Representation No. 05/2022

Order

Dated: 09.03.2022

Being aggrieved with Consumer Grievance Redressal Forum, Garhwal Zone (hereinafter referred to as Forum) order dated 28.12.2021 in his complaint no. 43/2021, before the said Forum, against UPCL through Executive Engineer, Electricity Distribution Division (North), Dehradun (hereinafter referred to as respondent) Shri Shiv Kumar Sahani S/o Shri Manohar Lal Sahani, Chuna Bhatta, Adhoiwala, Dehradun present address Ekta Vihar, Lane No. 1 Sahastra Dhara Road, Dehradun has preferred this petition for issuing revised PD OM and for depositing arrear as per the revised PD OM.

2. The petitioner has submitted that he had a firm named as M/s Suresh Chand Radheshyam at Chuna Bhatta, Raipur Road, Dehradun where he had a 1 KW connection as he needed a 3 phase connection he applied for termination of his existing 1 KW connection on 17.10.1995 to the respondent Executive Engineer, where after meter and cable of his 1 KW connection was removed and a 3 phase connection was released at the premises which is still alive. At the time of removal of 1 KW connection the respondent's staff informed that PD of the connection shall be sent to him, while he felt that the same should have been given then and there at the time of removal of the connection. A bill amounting to Rs. 190.00 was given to him in the month of October 1995 and he was told that another connection in a premises

where dues are outstanding, cannot be given unless the outstanding dues are cleared. He received a letter dated 09.08.2021 from the respondent demanding a sum of Rs. 36,416.00 as arrears against the old connection for the period January 2008 to 08.09.2021, which is wrong, because a 3 phase connection in the premises where 1 KW connection was existing was released in the year 1995 so there is no ground for issuing this demand. A copy of the demand letter dated 09.08.2021 has been adduced (A perusal of this letter shows that it is a notice under section 3 of Dues Recovery Act, 1958 for demanding outstanding dues Rs. 36,416.00 for the period January 2008 to 08.09.2021 in respect of connection no. 7021312078686). The petitioner has submitted that the connection was closed after PD dated 24.07.2018. He is only liable to pay any dues outstanding in the year 1995 at the time of removal of the connection. The period of outstanding dues in the demand notice has been shown from January 2008. He has submitted that it is a matter of concern to see that what is the position of dues from 1995 till December 2007. The petitioner is not responsible for any mistake by the department and neither it is justified to hold him responsible for such a mistake. As such the petitioner is not responsible for payment of dues against this demand note. A letter was written by him to the respondent on 01.09.2021 followed by reminder dated 20.09.2021 with no reply from him, which indicates that the respondent has no reply to give on his application. After termination of 1 KW connection no bill was given by the department. There is no logic and justification for raising a demand of Rs. 36,416.00 after 25 years of termination of the connection. At the time of removal no formalities were completed by departmental staff neither a final reading or PD slip was given to him, while the connection was removed in his presence.

3. Shortcomings in Forum's order

The Forum indicated that as per bill for the period 17.07.1995 to 18.10.1995 and another bill from 31.08.2005 to 18.10.2005, the previous reading has been shown as 350. These bills are submitted with his complaint before Forum, which suggests that no electricity was consumed by him after 17.10.1995. The Forum during hearing asked the opposite party to submit a detailed report as to the grounds on which office OM no. 1515 dated 10.10.2019 was issued but the opposite party in spite of providing a number of opportunities failed to submit the desired clarification. In such a circumstances the said OM is not acceptable and is liable to be quashed. The forum

therefore directed the department to issue a revised OM but no revised OM was submitted by the department and hence this appeal is being preferred with the following prayer.

The revised PD Om for 1 KW connection be ordered to be issued treating the date of release of 3 phase connection as the date of disconnection of the existing 1 KW connection and a revised bill may accordingly be issued. The petitioner has corroborated his averments with the following documents which are enclosed with the petition copy of complaint before Forum, copy of Forum order, section 3 demand note, photocopy of the last bill dated 23.12.1995 issued by department which was duly paid, receipt of 3 phase connection dated 17.10.1995, copy of OM dated 10.10.2019, copy of Forum letter dated 28.12.2021.

4. After perusal of records and hearing arguments from both parties and in view of the fact that the opposite party failed to clarify the basis of issue of OM no. 1515 dated 10.10.2019. The Forum was of the view that the aforesaid OM is liable to be quashed and they accordingly quashed the said office OM and directed that the opposite party may issue a revised OM treating the date of release of 3 phase connection as the date of PD of the 1 KW connection and may work out the revised amount of outstanding dues without levy of LPS.
5. The respondent Executive Engineer has submitted a written statement vide letter no. 3175 dated 03.02.2021, wherein he has submitted as follows: The petitioner had applied for termination of his 1 KW connection vide application dated 17.10.1995 as per bills connection no. 7022335078635 was existing in the year 1995 in the name of the petitioner, while connection no. in his aforesaid application was mentioned as 7021312078686 so these 2 connection numbers are different, while book no. as mentioned in his application is the same as at present, it is a matter of investigation as to how the present book number was mentioned in his application in the year 1995. For PD the consumer is required to deposit disconnection fee and submit a receipt thereof but no such evidence was submitted by him. A sum of Rs. 57380 were outstanding against connection no. 7021312078686 till January 2018 on the basis of PD report dated 24.07.2018 the committee decided that no consumption is being made at the premises w.e.f. 18.05.2000, therefore section 3 notice, for a sum of Rs. 36,416.00 as sent to the petitioner on 09.08.2021, in response of which the petitioner

submitted an application dated 01.09.2021 claiming that connection was presumably disconnected in the year 1995, The consumer was therefore asked to submit a receipt of disconnection and that of final assessment vide his letter no. 1613 dated 15.09.2021 which was not given by the consumer. It is clear that book number in the bill in the year 1995 was being shown as 2335, which was enclosed by the petitioner with his appeal, while book number in the letter submitted by him for PD in the year 1995 was mentioned as 1312, which book number did not exist in the year 1995, which indicates that the consumer is trying to get undue advantage on the basis of fabricated documents. He has therefore requested that the Hon'ble Ombudsman may kindly dismiss the appeal and would like to issue orders on the basis of the PD finalized in the year 2019.

6. The petitioner's has submitted his rejoinder dated 15.02.2022 along with an affidavit. Wherein he has stated that connection no. is not a point in the case. Hon'ble Forum has agreed the petitioner's contentions regarding PD in the year 1995. It is strange to ask for a 25 year old receipt from the consumer which is not feasible being too old. It was never expected that the petitioner can be asked to submit a 25 year old receipt while the department itself is responsible for so much delay. Why the department did not comply with all the procedures related to permanent disconnection when PD was done. The petitioner cannot be held responsible for the action which was to be taken by the department in connection with Permanent Disconnection. It is clarified that at the time of Permanent Disconnection in 1995 reading in the meter was 350 and the same reading 350 was obtaining from the year 2005 to 2008 as per departmental records which clearly establishes that since the same reading 350 continued to be appearing in the meter right from 1995 to 2008, that no electricity was consumed after 1995. The aforesaid 1 KW connection under domestic category was given in Chokidar's room and after 1995 the petitioner has been using its three phase connection. The respondent has stated that on the basis of PD report dated 24/07/2018 the committee agreed that electricity was not consumed or used in the premises of the petitioner from 18/05/2000 and reading as per departmental records was admitted to be 350 in the year 2000. He has further submitted that if the department decided 18/05/2000 as the date of disconnection the petitioner agrees to pay the bill upto the year 2000 at the reading 350. Further the respondent should submit the ledger for the year 2000 so that the facts may be clear. He has further pleaded that in case the

department do not accept the PD in the year 1995 then there are the bills and meter readings from 1995 to May 2005 which should be adduced by the department. It is clarified that no bills for the said connection were issued by the department after permanent disconnection in year 1995. He has stated that it is pertinent to mention that in the year 1995 connection used to be disconnected for non-payment of dues exceeding Rs. 2000 and a receipt was sent to Tehsil in the event of non-payment. He has argued that while the department took 25 year to issue the demand note under reference.

7. Hearing in the case was held on scheduled date 03.03.2022. Both parties appeared for arguments. The petitioner himself argued his case and the respondent Executive Engineer himself argued his case. The arguments were concluded with mutual consent. 09.03.2022 was fixed for pronouncement of order.
8. Documents available on file have been perused and arguments were heard from both parties. A perusal of the records and submissions by the respondent, it has been borne out that the petitioner's purported application dated 17.10.1995 to the department for termination of his 1 KW domestic connection is a fabricated document for discrepancy in connection number and book numbers, while as per records the correct connection no. in 1995 was 7022335078636 with book number 2335, while in his aforesaid application the petitioner mentioned connection no. 7021312078686 with book number 1312 which was not the book number in the year 1995, it is therefore established that he did not apply for PD of his 1 KW connection, because he wanted a 3 phase connection at the premises where 1 KW domestic connection existed. The petitioner himself admitted that his 1 KW domestic connection was given in chokidaar's room adjacent to the premises where 3 phase connection was applied for, which was admittedly released in the month of October 1995. It is therefore clear that the petitioner never applied for PD of his 1 KW connection, in fact the said connection was disconnected for nonpayment of dues. The actual date of disconnection was however not available in records and the same was determined as 18.05.2000 by an authorized committee. The PD was subsequently done on 24.07.2018 and according to PD OM no. 1515 dated 10.10.2019 the gross outstanding dues were Rs. 57,380.00 and after waiver of Rs. 20,979.00 the arrear generated after the date of temporary disconnection and adjustment of security Rs. 107.00, the payable dues have been worked out as 36,391.00. Section 3 notice was accordingly

sent to the petitioner on 09.08.2021 for a sum of Rs. 36,416.00 including notice service charges of Rs. 25.00 against his correct service connection no. 7021312078686 with book number 1312, as such a sum of Rs. 36,416.00 are payable by the petitioner. The Forum vide its order dated 28.12.2021 in complaint no. 43/2021 have set aside the PD OM no. 1515 dated 10.10.2019 and directed the opposite party (respondent here) that a revised PD OM be issued treating the date of release of 3 phase connection as the date of permanent disconnection of 1 KW connection of complainant. They have further directed that no surcharge shall be leviable as per the revised OM to be issued in compliance of its order.

9. Since the 3 phase connection was released to the petitioner in October 1995, this cannot be taken as the date of permanent disconnection for working out the outstanding dues because as per authorized committee's report the date of temporary disconnection was decided to be 18.05.2000 and that of PD was 24.07.2018, it will therefore be reasonable if the PD is finalized by taking 18.05.2000 as the date of temporary disconnection as mentioned in his written statement no. 3175 dated 03.02.2022 while the date of T.D. in PD OM no. 1515 dated 10.10.2019 has been taken as 18.10.2005 and 24.07.2018 as the date of PD. The petitioner has also agreed to this date of temporary disconnection (18.05.2000) when meter reading as per departmental records was 350. The respondents are therefore directed to withdraw the PD OM dated 10.10.2019 as also section 3 notice dated 09.08.2021 and issue a revised PD Om taking 18.05.2000 as the date of temporary disconnection and 24.07.2018 as the date of permanent disconnection and work out the amount of payable dues accordingly. However no LPS shall be leviable. The revised PD OM along with final bill as per this order be issued within 15 days from the date of this order and in the event of nonpayment of the outstanding dues as per revised PD Om after expiry of due date of payment, the respondents are at liberty to liquidate their dues by issuing section 3 notice and by issuing RC under section 5 of Dues Recovery Act, 1958, if the dues are not paid even after expiry of the prescribed date given in the revised section 3 notice. Forum order stands modified as per this order. Petition is partly allowed.

Dated: 09.03.2022

(Subhash Kumar)
Ombudsman