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**Appeal Petition No. P/04/2024
(Present A. Chandrakumaran Nair)
Dated: April-05-2024**

Appellant : Sri. Jacob Job, Palakunnel,
Nadackapadam, Perumpanachy P.O.,
Changanacherry, Kottayam (Dist.)
Pin-686536.

Respondent : The Assistant Executive Engineer,
Electrical Sub Division,
Kerala State Electricity Board Ltd.,
Thengana, Kottayam(Dist.).

ORDER

Background of the case

The appellant Sri. Jacob Job is a consumer under Electrical Section, Thengana with consumer no. 1148388024863. The connected load of the appellant is 4.985 Kw and he had applied for availing concession for using life supporting machine on 09/04/2021. The licensee has extended the concession of 100 units as per the Government Order. The appellant had installed solar plant of capacity 3.44 kWp and connected to the KSEBL Grid on 13/06/2022. The billing cycle had changed from bi monthly to monthly. The export of energy from the solar was higher than the import power and as a result only meter rent was billed in the energy bills. The appellant had submitted a complaint for evoking the concession already extended to him and credit the power in his account. The billing software adopted by the licensee (Orumanet), there is no provision to account this concession. As he was not consuming the supply from the licensee or import of energy in less than the export this concession could not be accounted. The consumer/appellant had filed petition to CGRF, AND CGRF issue order dated 04/12/2023 on completing the procedural formalities. This petition is filed as the appeal petition to the order of the CGRF.

Arguments of the Appellant

With reference to the order No;CGRF/KTR/OP No.47/2023/294 dated 05/12/2023 I totally disagree with the decision of the forum that they considered the net usage of energy for life saving device subsidy which is unjustifiable because the energy taken from KSEB has to be considered for subsidy calculation that is the import energy only. My average import is nearly 400 units per month where the subsidy of 200 units to be considered for calculation. Then only net energy to be taken for billing. The average energy consumption for the oxygen concentrator is more than 7 units per day.

I spent more than 2 lakhs rupees for the solar plant excluding the subsidy from MNRE which generates an interest liability of 17000 rupees per year. This is not a small amount for a consumer. The export energy is my own energy from my solar plant which KSEB has no right to claim for calculation purpose. Hence I earnestly request your honor to consider this case for a favorable order at the earliest.

Arguments of the Respondent

The petitioner is a consumer under the Electrical Section, Thengana bearing Con NO. 1148388024869. The connected load of the above premises is 4985 Watts. Sri. Jacob Job has submitted an application for availing concessions for using life supporting machine at his premises on 09/04/2021. As per the order No.Comml-II/Life Support/2012-13/104 dated 20.11.2012, the petitioner was receiving concessions of 100 units per month in the electricity charges upon units required for operating life support equipment from next billing cycle onwards.

On 13/06/2022, the petitioner installed solar power generator of 3.44 KWp in the premises and connected to the KSEBL's grid. The solar plant was installed in 'Soura model 2 subsidy scheme' (Consumer will get 40% of the installation cost of the solar plant as subsidy and he is eligible to use 100% energy his power plant generates). So the consumer's billing cycle changed from bimonthly to monthly. The meter reading for 07/2022 was a combination of the readings of old meter and new net meter, therefore life support scheme concession was given to the consumer during that month. After that, solar generation/export become higher than that of consumption/import and as a result only fixed charge and meter rent was included in the subsequent energy bills. After that consuming electricity from board supply is considerably reduced.

The details of consumption before installing solar plant in the premises and after installing solar plant in premises is tabulated below.

Sl. No.	Period	Import (energy from KSEBL supply)	Export Energy	Self generation solar meter reading	Relief received in Rs.
Before installing solar plant					
1	02/22	613			
2	04/22	621			
3	06/22	549			
After installing solar plant					
1	01/08/22 to 01/09/22	285 Units	222 Units		
2	01/09/22 to 01/10/22	427 Units	336 Units	544 Units	Nil
3	01/10/22 to 01/11/22	273 Units	216 Units	342 Units	Nil
4	01/11/22 to 01/12/22	304 Units	281 Units	383 Units	Nil
5	01/12/22 to 01/01/23	466 Units	321 Units	483 Units	Nil
6	01/01/23 to 01/02/23	397 Units	320 Units	447 Units	Nil
7	01/02/23 to 01/03/23	511 Units	122 Units	181 Units	Nil
8	01/03/23 to 01/04/23	296 Units	206 Units	316 Units	Nil
9	01/04/23 to 01/05/23	382 Units	261 Units	439 Units	Nil
10	01/05/23 to 01/06/23	498 Units	232 Units	452 Units	576.20
11	01/06/23 to 01/07/23	477 Units	209 Units	410 Units	588.60

On 28/11/2022, the consumer submitted a complaint to the Executive Engineer, Electrical Division, Changanassery for revoking concession of life support equipment and crediting the monthly concession units to his solar account as export for repayment. But in billing software adopted in KSEBL(Orumanet), concession is awarding to the net consumption recorded in the meter. As per the order No.Comml-II/Life Support/2012-13/104 dated 20.11.2012, the concession will be limited to the usage of life supporting system connected to KSEBL's supply only, not for the consumer's other connected equipment's. As per the energy bills of the consumer from 08/2022, the net usage from KSEBL's supply is not sufficient for getting the concession. As per the orumanet software life support concession was effected if the consumer has using board supply, so

the life support concession was given to the consumer during the month of 06/23 and 07/23. But the decision for whether solar consumers is eligible for life support concession to be obtained from board. So the request of consumer for accounting the units used for life supporting machines as banked unit can not be resolved. Clarification in this matter was requested to vide letter no DB/EESD-TNA/DB06/29 dated 29.07.31 to Executive Engineer, Electrical Division, Changanacherry.

Then the consumer filed a petition on 24/07/2023 before the Hon'ble CGRF, Kottarakkara in OP No 47/2023 praying that solar generation of 200 units per month should be considered as his power subsidy for life saving device and should be credited to his solar account as export for repayment. Hearing was conducted before the Hon'ble CGRF Kottarakkara on 05/10/2023 on the said matter. The Hon'ble forum heard the matter in detail. Prayed before the Hon'ble CGRF that the life supporting concession for previous billing months could be released only after getting proper direction from higher officials of KSEBL, since it is a policy matter of KSEBL.

In the Judgement order dated 04/12/2023 of the Hon'ble CGRF, Kottarakkara of the above petition, attached as Exhibit R2, the Hon'ble Forum find that the issue to be considered in this case is a policy matter to be decided by the KSEBL. Hence directed to take up the issue with the higher authorities of KSEBL and rectify the same at the earliest. The forum also orders to intimate the decision taken by the KSEBL on the issue to the petitioner within two month from the date of receipt of this order. Accordingly Vide Letter No. AEE/ESD-TNA/DB07/2023-24/73 dated 12/12/2023, the details of the above case with copy of the judgement has been submitted to the Executive Engineer, Electrical Division, Changanassery for further necessary action. Vide Lr NoDB/General/2023-24/126 dated 15-12-2023, The executive Engineer, Electrical Division Changanassery, submitted the report of the case to the Deputy Chief Engineer, Electrical Circle Kottayam for further necessary action. Copies of the above letters were also send to the petitioner.

Hence I Prayed before the Hon'ble Forum that the life supporting concession for previous billing months could be released only after getting proper direction from higher officials of KSEBL since it is a policy matter of KSEBL. Expecting a decision on this issue at the earliest.

Analysis and findings

The hearing of the case was conducted on 20/03/2024 at 11:00 a.m. in the KSEBL, IB, Pallom, Kottayam (Dist.). The hearing was attended by the appellant Sri. Jacob Job, and the respondent Smt. Sandhya T.S., Assistant Executive Engineer, Electrical Sub Division, Thengana, Kottayam (Dist.).

The appellant's wife was surviving with the support of life supporting equipment's such as oxygen concentrator which is consuming more than 200 units. She was suffering from sever Chronic Obstructive Pulmonary Disease(COPD). The Government of Kerala issued order vide GO (Rt) No. 50/2014/DD dated 13/02/2014 according to Section 65 of the Electricity Act 2003 for providing free electricity for patients surviving with the life supporting equipment's.

The Section 65 of Electricity Act

“ Provision of subsidy by State Government.—If the State Government requires the grant of any subsidy to any consumer or class of consumers in the tariff determined by the State Commission under section 62, the State Government shall, notwithstanding any direction which may be given under section 108, pay, in advance and in such manner as may be specified, the amount to compensate the person affected by the grant of subsidy in the manner the State Commission may direct, as a condition for the licence or any other person concerned to implement the subsidy provided for by the State Government:

Provided that no such direction of the State Government shall be operative if the payment is not made in accordance with the provisions contained in this section and the tariff fixed by the State Commission shall be applicable from the date of issue of orders by the Commission in this regard”.

As per the Government order dated 13/02/2014, the average consumption for all the life supporting documents is given free of cost to these patients. The total average consumption is to be assessed by the AE of the concerned section. Out of the total consumption up to 100 units are to be borne by KSEB and units above 100 units per month was ordered to be compensated by the Government. This is the good gesture of Government provided to the very critical patients who can't survive without these equipment's and also as the social responsibility. A good governance is to ensure the right to live his citizens to live as far as possible and extend support for this.

In the case in hand the appellant was getting this concession before the solar plant was installed and connected to the grid. When the solar plant was installed the consumption was lesser than the generation in the solar plant and hence there is no provision to enter the data in the Orumanet and hence the concession was withdrawn. The calculation in case of consumers having solar plant is

The total consumption =Generated power+ Imported power - Exported power

The chargeable consumption = Imported from the grid - Exported to the Grid

Here the exported power is more than the imported power and hence there is no chargeable consumption and extra exported is credited to his account and the banked power for which the payment is to be released by the licensee every year as per the rate fixed by the regulatory commission.

Now the question is whether the consumer is eligible for the concession, if he had installed the solar plant and there is no net consumption? Really the solar panel installation should not be a criteria for extending the concession declared by the Govt. As per the social responsibility and also to extend necessary support to the critically suffering patients. Neither the Govt. Order or the order of KSEBL doesn't spell about this issue. Whether they have the provision of self generation or not the patients are eligible for this concession.

The issue raised by the respondent is that there is no provision in the Orumanet to enter the data of concession. Then data of import and export to be entered in the software for generating the bill would have been as below.

Then the net import of energy = Import units recorded by the meter -
Units of concession applicable

If the Orumanet is not having the provision, the AE of the concerned section is to be authorised to enter this data on correcting as mentioned above, till necessary correction is made in the Orumanet.

The concession granted by the Government is without any condition and hence the appellant is eligible to get concession throughout. In anyway the concession permissible is only as per the Government Order. If the import is lesser than the concession, then the net import is to be considered as zero.

Decision

On verifying the documents submitted and hearing both the petitioner and respondent and also from the analysis as mentioned above, the following decision are hereby taken.

1. The appellant is eligible to get the concession as per the Government order.
2. The licensee may authorise the Section Engineer to enter the data on making necessary correction of concession or any other suitable mechanism to get this concession.
3. The licensee shall make necessary correction in the Orumanet if required to extend this concession to the eligible patients.
4. No order on cost.

No. P/04/2024/ dated: 05/04/2024

Delivered to:

1. Sri. Jacob Job, Palakunnel, Nadackapadam, Perumpanachy P.O., Changanacherry, Kottayam (Dist.),Pin-686536.
2. The Assistant Executive Engineer, Electrical Sub Division, Kerala State Electricity Board Ltd., Thengana, Kottayam(Dist.).

Copy to:

1. The Secretary, Kerala State Electricity Regulatory Commission, KPFC Bhavanam, Vellayambalam, Thiruvananthapuram-10.
2. The Secretary, KSE Board Limited, Vydhyuthibhavanam, Pattom, Thiruvananthapuram-4.
3. The Chairperson, Consumer Grievance Redressal Forum, Vydhyuthi Bhavanam, KSE Board Ltd, Kottarakkara - 691 506.