

THE STATE ELECTRICITY OMBUDSMAN

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APPEAL PETITION No. P/020/2021

(Present: A.S. Dasappan)

Dated: 26th August 2021

Appellant : Sri. K.P. Muhammedali Haji
Kizhakkepillikkal House,
KPM Arcade, Hospital Road,
Perinthalmanna,
Malappuram Dist.

Respondent : Asst. Executive Engineer,
Electrical Sub Division, KSEB Ltd.,
Perinthalmanna, Malappuram Dist.

ORDER

Background of the case:

The appellant is a Low Tension (LT) consumer of KSEB Ltd. with consumer number 1165627044925 having a connected load of 18 kW. The appellant is running a restaurant in the name and style "KPM Family Restaurant" under the section area of Electrical Section, Perinthalmanna. The appellant received an arrear bill amount for Rs.35,791/- in the electricity bill dated 01-12-2020. The appellant approached the Consumer Grievance Redressal Forum (CGRF), Northern Region with a petition requesting (1) Rebate as per the Board Order may be allowed in the fixed charges for the months of April, May and June 2020. (2) Demand Charge may be reduced to 75% in all months where billing demand did not exceed 75% of the connected load (3) 24 interest free installments may be allowed to remit the arrears up to December 2020. The CGRF filed the petition vide OP No.111/2020-21 and issued order on 20-02-2021 as follows: -

"(a) The relief sought in petition vide items (1) and (2) are thus found devoid of any merit to consider and hence, dismissed (b) The relief noted in item (3) shall be allowed as a special case. The respondent shall collect the arrear

amount in 15 equal installments and the installment shall carry interest as per Regulation 131 (2) of Kerala Electricity Supply Code 2014. The petitioner need not pay interest for the bill amount for the petition pending period before the Forum.”

Not satisfied with the decision of the Forum, the appellant filed this appeal petition before this Authority.

Arguments of the appellant:

None of the documents submitted by the appellant were taken into consideration by the CGRF and issued one sided, biased and unilateral order and which is not at all on merits. The energy consumption was very low, when compared to the billed demand, during the “Lockdown” is an absolute truthful statement and which was not considered by the Forum. The CGRF has erred in its finding that Regulation 60 of Kerala Electricity Supply Code 2014 is not applicable in the case on hand, owing to the fact that it is applicable to the new service connection. The CGRF also failed to uphold the fact that the “Lockdown” of the establishment was not at the whims and fancies of the appellant rather it was a mandatory constraint imposed by the Government. It is true that the entire establishment was closed down and the appellant had to suffer a huge in the business. The prayer of the appellant before the CGRF was to allow them to pay the electricity charges in 24 interest free monthly installments for the energy consumed and to give relaxation for the non-use owing to ‘COVID 19’ pandemic, which was a forceful “Lockdown” imposed by the Government. A huge amount even running into lakhs of rupees is kept as security deposit in the account of KSEB Ltd. in the name of the appellant and yet they are threatening the appellant with the notice of disconnection. Even the interest of such security deposit will be more than sufficient to meet with the requirement of KSEB Ltd. The appellant has remitted the electricity charges without any default till this day except for the disputed arrears, which is challenged herein. The respondent started threatening to disconnect the service from the very next day onwards from the date of order of CGRF and the appellant has remitted first installment of the disputed arrear amount under protest. The request of the appellant is to quash

the order of CGRF, Northern Region and allow the appeal petition with costs.

Arguments of the respondent:

The argument of the respondent is as follows: -

The appellant promptly paid up to the consumption for the month of January 2020. However, due to the 'Lockdown' in March 2020, the appellant stopped payment of energy charges from the month of March 2020 to December 2020.

The respondent has issued a total arrear bill amounting to Rs.35,791/- in November 2020. However, from the consumption for the period of December 2020, the appellant has started payment to the Licensee.

From the Licensee point of view, the eligible rebate is already allowed to the appellant. The Licensee has issued 25% rebate for the fixed charges for the months of March, April and May 2020 as per Board Order (BO-FTD No.363/2020(KSEB)/TRAC-D/Covid Pandemic – Tariff concession 2020-21) dated 30-05-2020. The appellant has demanded that demand charges (Fixed charge) may be reduced to 75% of actual demand charges for all the months of COVID hit period. Also, appellant prayed that 24 interest free installments may be allowed up to December 2020. The Licensee could not grant that demand.

Based on the order of CGRF the appellant has paid the first installment amount of Rs.2,386/- unilaterally on 01-03-2021 without the intimation to the Licensee, as online payment.

In the above circumstances, the respondent requested to dismiss the appeal petition.

Analysis and findings:

An online hearing of the case was conducted on 22-07-2021 with prior intimation to both the appellant and the respondent. Sri. Rajan M. Menon appeared for the appellant Sri. K.P. Muhammedali Haji and Sri. C. Seby Thomas, Assistant Executive Engineer, Electrical Subdivision, Perinthalmanna from the

respondent's side attended the hearing. On examining the petition, the counter statement of the respondent, the documents attached and the arguments made during the hearing and considering all the facts and circumstances of the case, this Authority comes to the following findings and conclusions leading to the decision thereof.

The appellant is a LT consumer having a connected load of 18 kw. The usual electricity bill being issued to the appellant is comprising of the fixed charge for 18 kw and the energy charge. The appellant wants to get rebate in fixed charge for the months of April, May and June 2020, to reduce fixed charge in all months where billing demand did not exceed 75% of connected load and to allow 24 numbers interest free installments to remit the arrears up to 12/2020. The CGRF, Northern Region rejected the first two requirements of the appellant and allowed 15 installments against the request for 24 installments, with interest.

The argument of the appellant for the above is that the consumption during the "Lockdown" period was very low. Another argument of the appellant is that Regulation 60 of Kerala Electricity Supply Code 2014 is to be applied in this subject case.

The Regulation 60 says, – Failure of the applicant to avail supply due to reasons beyond his control:-

“If the applicant fails to avail supply due to reasons beyond his control such as natural calamity, order of a Court or of any other competent authority, public resistance and change in law, the applicant shall not be liable to pay any compensation or charges to the Licensee on account of such failure to avail supply of electricity.”

This Regulation in continuation to the Regulation 59 of Kerala Electricity Supply Code 2014, which explains the “delay on the part of applicant to take supply”. In this appeal petition Regulation 60 of Kerala Electricity Supply Code 2014 has no relevance since which pertains to the applicants who want to avail fresh connection. Here the appellant is not an applicant, but a consumer who is availing electric power from the Licensee. Hence, “reason beyond his control such as natural calamity” in Regulation 60 of Kerala Electricity Supply Code 2014 cannot be applied in this case.

The appellant requested rebate on the fixed charge for the months April, May and June 2020. The respondent revealed that 25% of the fixed charge for the months of March, April and May 2020 has been allowed to the appellant as per the order of KSEB Ltd. As such the appellant was given the benefit under “Lockdown” period as per rules.

Another requirement of the appellant is to reduce the fixed charge to 75% in all the months when the billing demand did not exceed 75% of connected load. But it is to be noted that the appellant is being billed in connected load basis and hence, there is no provision to reduce the fixed charge for 75% of the connected load.

In this case, the appellant has no remarks on the accuracy of the metering system installed in the premises of the appellant.

This Authority verified the monthly bill issued from 01-10-2019 to 02-11-2020 and the figures obtained from the bills are furnished below: -

Bill date	Regular monthly bill amount (Rs.)	Arrears shown in the bill (Rs.)	Net payable amount (Rs.)
01-10-2019	8850	35791	35791
01-11-2019	11940	35791	35791
01-12-2019	12533	35791	35791
01-01-2020	15428	35791	35791
01-02-2020	9802	35791	35791
02-03-2020	10315	24393	29672
01-04-2020	4730	24877	29672
07-05-2020	4722	24950	29672
01-06-2020	2692	29968	29672
01-07-2020	2835	26798	29672
03-08-2020	3060	26612	29672
07-09-2020	3185	23434	26619
01-10-2020	3053	26619	29672
02-11-2020	3053	32738	35791

On analyzing the above details, it is seen that an amount of Rs.35,791/- as arrear amount and net payable amount in the bill dated 01-10-2019 to 01-02-2020 and finally in the bill dated 02-11-2020, the arrear amount is shown as Rs.35,791/-. The respondent shall verify the bills issued to the appellant and ascertain the correctness of the bill. The arrear amount to be remitted by the appellant as on 02-11-2020 is Rs.35,791/- comprising of fixed charge and energy charge.

It is pertinent to note that the appellant was given the concession in fixed charge, as ordered by the Licensee for March, April and May 2020. Hence, the request is only for the rebate in fixed charge for further remaining period. It is noted that argument of the appellant for the claim is only for a portion of fixed charge from June 2020 onwards, but which was not ordered by the Licensee or any other empowered bodies. Hence, the non-remittance of energy charge and major portion of the fixed charge cannot be accepted. The “arrear bill” issued to the appellant is not a reassessed amount related to the energy consumption or any amount escaped from the notice of the respondent, but it is the usual monthly electricity bill for the energy consumed. As such, a consumer is liable to remit the energy charge then and there itself.

Another argument of the appellant is for allowing 24 numbers interest free installments and the CGRF allowed 15 numbers installments with interest. In this subject case, this Authority could not find any ground to exempt the appellant from paying the interest for installments.

As per Regulation 130 (1) of Kerala Electricity Supply Code 2014, any complaint with regard to the accuracy of bill shall be made in writing to the officer designated by the Licensee to issue the bill. As per Regulation 130 (7) of Kerala Electricity Supply Code 2014, “if the complaint was found to be incorrect, the consumer shall immediately be notified and directed to make payment as per the original bill and the consumer shall be liable to pay late payment penalty if the payment is made after the due date of payment as per the original bill”.

In this case, the complaint is not related to the accuracy of the bill, but related to the deduction of fixed charge for an extended period for which no orders or directions were issued by the Licensee or other empowered bodies.

Decision: -

From the analysis done and the findings and conclusions arrived at, which are detailed above, this Authority take the following decision: -

As ordered by KSEB Ltd., the rebate @ 25% on fixed charge for the months of March, April and May 2020 had already been adjusted in the regular monthly bill. Hence, the request of the appellant for the implementation of Board Order in allowing rebate for the three months is treated as settled and hence closed.

Since the rebate on fixed charge granted by KSEB Ltd. had already been given to the appellant and there is no orders or directions from KSEB Ltd. or any from other empowered bodies to extend the rebate on fixed charge to a further period, the request of the appellant to reduce the fixed charge to 75% in all months where billing demand did not exceed 75% of the fixed charge is rejected.

The CGRF, Northern Region had already granted 15 numbers instalments, as a special case, for the payment of arrear amount with interest as per rules. Further review on this subject is not required and the decision of CGRF in granting instalments with interest is upheld.

The CGRF, Northern Region exempted the appellant from paying the interest on the arrear amount for the petition pending period in the Forum. But this Authority observed that the arrear amount is the regular monthly bills, which had to be remitted by the appellant within the due date in each month and the requirement of the appellant is for a rebate on a portion of fixed charge only. As such the appellant shall remit interest for the energy charge for the pending period of petition in CGRF, Northern Region and the appeal petition pending period before this Authority. At the same time, the appellant is exempted from paying the interest on 25% of the fixed charge during the petition pending period in CGRF, Northern Region and before this Authority. The respondent shall revise the bill accordingly and issue to the appellant within 15 days from the date of orders.

Having concluded and decided as above, it is ordered accordingly. The order of CGRF, Northern Region in OP No. 111/2020-21 dated 20-02-2021 is modified to this extent. No order on costs.

ELECTRICITY OMBUDSMAN

P/020/2021/_____ dated _____.

Delivered to:

1. Sri. K.P. Muhammedali Haji, Kizhakkepillikkal House, KPM Arcade, Hospital Road, Perinthalmanna, Malappuram Dist.
2. Asst. Executive Engineer, Electrical Sub Division, KSEB Ltd., Perinthalmanna, Malappuram Dist.

Copy to:

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