



A consumer is the important visitor on our premises.
He is not dependent on us. We are dependent on him.
-Mahatma Gandhi

TAMIL NADU ELECTRICITY OMBUDSMAN

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Before The Tamil Nadu Electricity Ombudsman, Chennai

Present : Thiru. N.Kannan, Electricity Ombudsman

A.P.No. 35 of 2024

Thiru.D.Visahl,
Old No.12/5, New No.49, Rajaji Street,
Saidapet, Chennai – 600015.

. Appellant
(Rep. by Thiru A. Durai Arasan)

Vs.

The Executive Engineer / Urban,
Tuticorin Electricity Distribution Circle,
TANGEDCO,
No.131,132, Ettayapuram Road,
Tuticorin-628001.

. . . . Respondent
(Thiru R.Kannan, EE/Urban/Tuticorin)

Petition Received on: 10-05-2024

Date of hearing: 26-06-2024

Date of order: 16-07-2024

The Appeal Petition received on 10.05.2024, filed by Thiru.D.Visahl, Old No.12/5, New No.49, Rajaji Street, Saidapet, Chennai – 600015 was registered as Appeal Petition No. 35 of 2024. The above appeal petition came up for hearing before the Electricity Ombudsman on 26.06.2024. Upon perusing the Appeal Petition, Counter affidavit, written argument, and the oral submission made on the hearing date from both the parties, the Electricity Ombudsman passes the following order.

ORDER

1. Prayer of the Appellant:

The Appellant has prayed to reverse the penalty amount of Rs.19,825/- levied by Enforcement team for non-implementation of tariff change.

2.0 Brief History of the case:

2.1 The Appellant has prayed to reverse the penalty amount of Rs.19,825/- levied by Enforcement team for non-implementation of tariff change in SC No. 07342014332.

2.2 The Respondent has stated that the consumer did not pay the tariff change fee as demanded by TANGEDCO. Therefore, the tariff change could not be effected, and there is no basis for refunding the extra levy amount of Rs.19,825/- levied for the misuse of the tariff.

2.3 Hence the Appellant has filed a petition with the CGRF of Tuticorin EDC on 07.11.2023 requesting for tariff change.

2.4 The CGRF of Tuticorin EDC has issued an order dated 06.01.2024. Aggrieved over the order, the Appellant has preferred this appeal petition before the Electricity Ombudsman.

3.0 Orders of the CGRF :

3.1 The CGRF of Tuticorin Electricity Distribution Circle issued its order on 06.01.2024. The relevant portion of the order is extracted below: -

“முடிவுரை:

தூத்துக்குடி மின் பகிர்மான வட்டம், நகர் /தூத்துக்குடி கோட்டம். நகர்/ தெற்கு உப கோட்டம் சிதம்பரநகர் விநியோக பிரிவிற்குட்பட்ட மனுதாரர் திரு.D. விசால், 49. ராஜாஜிதெரு, சைதாபேட்டை, சென்னை அவர்களின் கோரிக்கை TNERC நிர்ணயிக்கப்பட்ட காலத்திற்குள் நிறைவேற்றப்பட்டு விட்டதால் இம்மன்றம் இந்த மனுவை முடித்து வைக்கிறது.

மேலே கண்ட தீர்வுடன் இம்மனு எண்:21/2024 முடிவுக்கு கொண்டு வரப்படுகிறது.”

4.0 Hearing held by the Electricity Ombudsman:

4.1 To enable the Appellant and the Respondent to put forth their arguments, a hearing was conducted on 26.06.2024 through video conferencing.

4.2 On behalf of the Appellant, his representative Thiru A. Durai Arasan attended the hearing and put forth his arguments.

4.3 The Respondent Thiru R.Kannan, EE/Urban/Tuticorin, Tuticorin Electricity Distribution Circle attended the hearing and put forth his arguments.

4.4 As the Electricity Ombudsman is the appellate authority, only the prayers which were submitted before the CGRF are considered for issuing orders. Further, the prayer which requires relief under the Regulations for CGRF and Electricity Ombudsman, 2004 alone is discussed hereunder.

5.0 Arguments of the Appellant:

5.1 The Appellant has stated that he had applied for tariff change through online on 9th October for service no 07342014332 in Tuticorin District and the Application Reference No: 2000734210233059 Tariff change Demand of Rs.242/- was paid online on the same day i.e 9th Oct. The tariff change was not effected by TNEB, Tuticorin and hence he has been charged Rs.19,825/- as fine and he paid it on 07-11-2023 or he was told the supply will be disconnected immediately by the flying squad.

5.2 The Appellant has stated that he has filed CGRF petition no 1011230946636 dated: 10-11-2023 and in CM cell portal-6400268. It has been replied by the EE, Tuticorin in his letter dt 06.12.2023 that only Registration fee was paid online and the Admission / Approval fee was not paid and hence tariff change was not done.

5.3 The Appellant has stated that the online demand for Rs.242/- paid while filing the application, is for REGISTRATION CUM PROCESSING fee as stated in the demand note which means all charges are included. Hence the question of Admission/ Approval fee separately again as stated by the EE, Tuticorin in his letter

will not raise. Also the "Know your payment charges" link given in the online application portal do not specify any such Admission/Approval charges.

5.4 The Appellant has stated that the EE has stated that he has collected the Admission/Approval fee on 08.11.2023 and effected the tariff change. But in the online payment portal, no such Admission/Approval fee collection receipt is reflecting in the payment history. This means the EE is making a false statement.

5.5 The Appellant has stated that the EE states that the demand for Admission/Approval fee was uploaded in the portal on 13.10.2023 itself and e-mail and SMS were sent to him. But no such demand was reflecting in the portal and neither an email nor SMS was received by him. Further the Online application portal states that "All payments related to this application should be paid only through TANGEDCO online payment portal. (Refer information to customers-Online application portal) which necessitates his mobile no as password. Then how the EE collected cash and made online payment. That means no such demand has been raised and no email/SMS was sent by the EE.

5.6 The Appellant has stated that the online application portal also states that any additional charges on inspection will be adjusted in CC bills. But this aspect was not considered by the EE. The Appellant has requested to reverse the penalty of Rs.19,825/- and do the needful.

6.0 Arguments of the Respondent:

6.1 The Respondent has submitted that the Consumer of Service connection no. 07-342-014-332 has paid Registration cum processing charges of Rs.242 through online for Tariff change from Tariff-IA to Tariff-V on 09.10.2023. Online Application number is 34210233059. Total amount paid on 09-10-2023 is Rs.242 (Rs.205 for Registration cum processing charges, Rs.18.45 for SGST, Rs.18.45 for CGST and Rs.0.1 for Rounding off).

6.2 The Respondent has submitted that the approval for Tariff change was accorded on 13.10.2023. Tariff change charges of Rs.183 was intimated to the consumer through Mail and SMS was sent to the registered cell number for payment. Tariff change can be effected only after the payment of Rs.183 (Rs.155 for Testing fees, Rs.13.95 for SGST and Rs.13.95 for CGST)

6.3 The Respondent has submitted that the Revenue supervisor and the Wireman of Chidambaranagar section have informed the staff in the premises of above service connection number in person to pay Rs.183. But the amount was not paid by the consumer. Hence Tariff change from Tariff-IA to Tariff-V could not be done in Service connection number 07-342-014-332. In the meantime, Enforcement team has inspected the service connection number 07- 342-014-332 on 07.11.2023 and detected Misuse of Tariff from Tariff-IA to Tariff-V for which the consumer has paid Extra levy amount of Rs.19,825/- on the same day itself. Since the Extra levy amount was paid, the Service connection 07-342-014-332 was not disconnected 07.11.2023.

6.4 The Respondent has submitted that the consumer has paid the sanctioned amount of Rs. 183 for Tariff change from Tariff-IA to Tariff-V on 08.11.2023 only. The tariff was changed from Tariff-IA to Tariff-V on 08.11.2023 itself. The Petitioner has filed CGRF Petition no. 80324173703 dated 08.03.2024 SI.No.21/2024. The Consumer Grievance Redressal Forum has ordered through its judgement dated 16.04.2024, that the petition filed by the petitioner, Thiru.D. Vishal 49, Rajaji street, Saidapet, Chennai is closed as the Petitioner's Grievance of Tariff change from Tariff IA to Tariff V has been completed within the TNERC prescribed date of standard of performance. The Forum has completely considered the petitioner's grievance and declared that there is no delay in time.

6.5 The Respondent has submitted that the Consumer has paid only the Registration Charges Rs.242 (Rs.205 for Registration cum processing charges, Rs.18.45 for SGST, Rs.18.45 for CGST and Rs.0.1 for Rounding off) through online and has not paid Tariff change fees Rs.183 as demand raised by TANGEDCO on

13.10.2023. Hence Tariff change could not be affected. Hence there is no need to refund the Extra levy amount of Rs.19,825/- levied for misuse of Tariff.

7.0 Findings of the Electricity Ombudsman:

7.1 I have heard the arguments of both the Appellant and the Respondent. Based on the arguments and the documents submitted by them, the following conclusion is arrived.

7.2 The appellant applied online for a tariff change on 9th October for service number 07342014332 and paid a demand of Rs.242/- on the same day. He believed this payment covered the registration cum processing fee, which included all necessary charges. However, the TANGEDCO, Tuticorin did not effect the tariff change, resulting in the appellant being charged a fine of Rs.19,825/-, which he paid on 7th November 2023 under the threat of immediate disconnection of supply by the flying squad.

7.3 In response, the appellant filed a petition with the Consumer Grievance Redressal Forum (CGRF) and in the CM cell portal. The Executive Engineer (EE), Tuticorin, replied that only the registration fee was paid online and that an additional admission/approval fee was required but not paid, which is why the tariff change was not effected. The appellant argues that Rs.242/- paid online was meant to cover all necessary fees, as indicated in the demand note, and points out that the online portal does not specify any separate admission/approval charges.

7.4 The appellant further argued that the EE claimed to have collected the admission/approval fee on 8th November 2023 and subsequently effected the tariff change. Additionally, the EE stated that the demand for the additional fee was uploaded on 13th October 2023 and that notifications were sent via email and SMS, which the appellant asserts he did not receive. The appellant emphasizes that the online portal mandates that all payments related to applications should be made through the TANGEDCO online payment portal and questions how the EE could collect cash and make an online payment. He also highlights that any additional

charges after inspection should be adjusted in the CC bills, which was not considered by the EE.

7.5 In light of these issues, the appellant requests the reversal of Rs.19,825/- penalty and the necessary corrective actions, as he believes the imposition of the penalty is unwarranted given the procedural lapses and the alleged improper handling of his tariff change application.

7.6 The respondent has stated that the consumer of service connection number 07-342-014-332 paid registration cum processing charges of Rs.242/- online for the tariff change from Tariff-IA to Tariff-V on 09.10.2023. This payment included Rs.205/- for registration cum processing charges, Rs.18.45 for SGST, Rs.18.45 for CGST, and Rs.0.1 for rounding off. The approval for the tariff change was given on 13.10.2023, and a tariff change charge of Rs.183/- was communicated to the consumer via email and SMS. This amount included Rs.155/- for testing fees, Rs.13.95 for SGST, and Rs.13.95 for CGST. The respondent asserts that the tariff change could only be effected after the payment of Rs.183/-.

7.7 The respondent also mentions that the revenue supervisor and wireman of Chidambaranagar section personally informed the staff at the premises of service connection about the required payment of Rs.183/-. However, the consumer did not make this payment, and hence, the tariff change from Tariff-IA to Tariff-V could not be completed. Subsequently, an enforcement team inspected the service connection on 07.11.2023 and detected misuse of tariff. As a result, the consumer paid an extra levy amount of Rs.19,825/- on the same day to avoid disconnection.

7.8 The respondent further notes that the consumer eventually paid Rs.183/- for the tariff change on 08.11.2023, and the tariff was changed on the same day. The consumer then filed a petition with the Consumer Grievance Redressal Forum (CGRF), which, through its judgment dated 16.04.2024, declared that the petitioner's grievance regarding the tariff change had been addressed within the TNERC prescribed standard of performance. The forum concluded that there was no delay in the process.

7.9 Lastly, the respondent emphasizes that the consumer only paid the registration charges of Rs.242/- online and did not pay the tariff change fee of Rs.183/- as demanded by TANGEDCO on 13.10.2023. Therefore, the tariff change could not be effected, and there is no basis for refunding the extra levy amount of Rs.19,825/- levied for the misuse of tariff.

7.10 During the hearing, the respondent stated that the service connection number 07-342-014-332 was availed under Tariff-IA, but there was an existing beauty parlour named Jasmine SPA at the premises. Hence, the assessment staff informed that the tariff should be changed to commercial. A photo of the beauty parlour was also furnished to substantiate their claim. However, the appellant denied this and maintained that utilization of tariff was only under Tariff IA. When enquired the appellant about the necessity for changing the tariff from IA to V, the appellant denied the existence of beauty parlour in the above service connection and also argued that even during the Enforcement wing's inspection on 07.11.2023, the service was under LT Tariff IA category.

7.11 When it was asked why he paid the extra levy, the appellant did not respond. Further, it is noted that the appellant has not exercised his right to appeal as provided in Section 126 of Electricity Act, 2003 and relevant regulations to challenge the detection of mis-use and consequent extra levy of Rs.19,825/- by the Enforcement team.

7.12 From the above, it is evident that the subject matter is concerned about misuse of tariff which was booked under Section 126 of the Act as per regulation 19 of TNE Supply Code - *Unauthorized use of Electricity – Investigation and Enforcement Provision* which deals with the provisions for investigation and enforcement in cases of unauthorized use of electricity. Therefore before going into the merits of the case, I would like to refer regulation 5 in TNERC Regulations for Consumer Grievance Redressal Forum and Electricity Ombudsman 2004, which is reproduced below;

“Kind of grievance that can be taken up by the forum

5. *The forum shall take up any kind of grievances/complaints as defined in clause 2(f) of these Regulations. However, the consumer's grievances concerned with*

(i) unauthorized use of electricity as detailed u/s 126 and

(ii) Offences and penalties as detailed u/s 135 to 141 of the Electricity Act 2003 are excluded from the purview of this forum.”

7.13 From the above it is noted that (i) unauthorized use of electricity as detailed u/s 126 and (ii) Offences and penalties as detailed us 135 to 141 of the Electricity Act, 2003 are excluded from the purview of CGRF.

7.14 In the present case, the appellant's prayer is to refund the amount of Rs. 19,825/- which was collected as penalty. As per the findings in the foregoing paras, it has been found that the appellant has been charged with mis-use of Tariff u/s 126 of Electricity Act, 2003. Therefore, the prayer of the appellant to refund the amount of Rs.19,825/- which was collected as extra levy by the Enforcement wing towards mis-use of tariff u/s 126 of the Electricity Act, 2003 is not under the purview of the Ombudsman and hence rejected.

8.0 Conclusion:

8.1 Based on the above findings, the prayer of the appellant is rejected.

8.2 With the above findings A.P.No.35 of 2024 is disposed of by the Electricity Ombudsman.

(N. Kannan)
Electricity Ombudsman

“நுகர்வோர் இல்லையேல், நிறுவனம் இல்லை”
“No Consumer, No Utility”

To

1. Thiru.D.Visahl,
Old No.12/5, New No.49, Rajaji Street,
Saidapet, Chennai – 600015.

- By RPAD

2. The Executive Engineer / Urban,
Tuticorin Electricity Distribution Circle,
TANGEDCO,
No.131,132, Ettayapuram Road,
Tuticorin-628001.

3. The Superintending Engineer,
Tuticorin EDC,
TANGEDCO,
No.131,132, Ettayapuram Road,
Tuticorin-628001.

- By email

4. The Chairman & Managing Director,
TANGEDCO,
NPKRR Maaligai, 144, Anna Salai,
Chennai -600 002.

– By Email

5. The Secretary,
Tamil Nadu Electricity Regulatory Commission,
4th Floor, SIDCO Corporate Office Building,
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– By Email

6. The Assistant Director (Computer)
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