

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. S. Devarajan, Electricity Ombudsman

A.P.No. 93 of 2021

Thiru K.A.Nagarajan,
S/o. Asokumar,
114/B16/5E, Katchery Road,
Velachamy Nagar,
Virudhunagar – 626 001.

. Appellant
(Rep. by Thiru S. Balakrishnan)

Vs.

The Executive Engineer/Distribution/Virudhunagar,
Virudhunagar Electricity Distribution Circle,
TANGEDCO,
Ramamoorthy Road,
Virudhunagar-626001.

. . . . Respondent
(Tmt. R. Akilandeshwari, EE/D/Virudhunagar)

Petition Received on: 14-12-2021

Date of hearing: 16-02-2022

Date of order:- 18-04-2022

The Appeal Petition received on 14.12.2021 filed by Thiru K.A.Nagarajan, S/o. Asokumar, 114/B16/5E, Katchery Road, Velachamy Nagar, Virudhunagar – 626 001 was registered as Appeal Petition No. 93 of 2021. The above appeal petition came up for hearing before the Electricity Ombudsman on 16.02.2022. 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 refund the excess amount collected under LT-VI (temporary supply tariff) instead of LT-IA and applicable compensation for the delay in effecting the tariff revision.

2.0 Brief History of the case:

2.1 The Appellant has stated that an application was given to AE/West/Virudhunagar for change of tariff after completion of the building work. Due to the delay made by the AEE to inspect the site the appellant had to pay excess amount.

2.2 Hence the appellant has filed a petition with the CGRF of Virudhunagar EDC on 18.05.2021 requesting to refund the excess money collected. The CGRF of Virudhunagar EDC has issued an order dated 05.10.2021. 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 Virudhunagar Electricity Distribution Circle have issued its order on 05.10.2021. The relevant portion of the order is extracted below :-

முடிவுரை:

மனுதாரரின் மின் இணைப்பில் வீதப்பட்டி மாற்றம் செய்ததிலும், நிலையான கட்டணம் வசூல் செய்ததிலும், அதிகப்படியான தொகை ஏதும் வசூல் செய்யப்படவில்லை என்பதால் மனுதாரர் கோரியுள்ளவாறு தொகையை திருப்பியளிக்க தேவையில்லை என உத்தரவிட்டு மனு எண் 10/21-22 இம்மன்றத்தால் முடித்து வைக்கப்படுகிறது. மேலும், மனுதாரர் குறிப்பிட்டுள்ள சேவை குறைபாடுகளின்றி இனிவரும் காலங்களில் பணிபுரிய உரிய அறிவுரைகள் வழங்க விருதுநகர் கோட்ட செயற்பொறியாளருக்கு இம்மன்றம் அறிவுறுத்தல் வழங்குகிறது."

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 16.02.2022 through video conferencing.

4.2 On behalf of the Appellant Thiru S. Balakrishnan has attended the hearing and put forth his arguments.

4.3 The Respondent Tmt. R. Akilandeshwari, EE/D/Virudhunagar, Virudhunagar Electricity Distribution Circle has attended the hearing and put forth her arguments.

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

5.0 Arguments of the Appellant :

5.1 The Appellant has stated that tariff change application with latest Property Tax Receipt was given to The Assistant Engineer/Town/West/ Distribution /Virudhunagar/TANGEDCO on 05/05/2021 for the SC No:222-012-172 after occupying the house and getting the new house property tax receipt with the incorporation of door number & completing the service connection shifting works. No acknowledgement was given for the receipt of the application even after requesting the AE/ West/Town Virudhunagar to give the acknowledgement which is a mandatory one as per Tamil Nadu Electricity Distribution Standards and Performance (DSOP) Regulations 2004 under section 9.

5.2 The Appellant has stated that with delayed tariff revision he had to pay excess CC billing charges by way of temporary supply charges and he is eligible for the refund of excess money collected beyond the TNERC admissible days for effecting the tariff revision time limit along with the eligible compensation as per (DSOP) Regulations 2004 under section 9 (change of Tariff).

5.3 The Appellant has stated that excess money by way of fixed charges collected for the month of 11/2020 CC bill for exceeding the sanctioned demand

without giving any intimation and receiving any dated acknowledgement from the consumer as per the Regulations under Tamil Nadu Electricity Supply Code (Amendments updated up to 30/06/2013) with Section 2 sub section 2 Excess Demand Charges in clause (III) (A).

5.4 The Appellant has stated that on 05.05.2021 while giving the application for the tariff revision no authentication had been attached for the completion of the house construction work. While effecting the service shifting on 05.05.2021, the authorities have confirmed the presence of the family members in the house (in fact the house was occupied on 19.04.2021 and can be verified with the latest house property tax receipt).

5.5 The sequential events that happened for the tariff revision is given below.

- Tariff revision Application submitted to AE/Town/West/Virudhunagar: 05/05/2021
- No acknowledgement was given by AE even after insisting for acknowledgement - reason quoted: due to Covid pandemic.
- ADE/Town/Virudhunagar inspection: 06//05/2021
- No communication to the consumer about the inspection either in person or through any one of the modes of communication medium - reason quoted: inadequacy of staff.
- As there was no action for the tariff revision a petition was raised to CGRF on 18.05.2021 vide petition No: 1805212058531
- On 07.06.2021 without anybody's intimation tariff revision was effected

5.6 The Appellant has stated that in the month of 11/2020 when the service maximum demand exceeded beyond the sanctioned demand of 1.32kw, penalty had been levied along with the fixed charges on the same first billing itself and the excess charges have been levied by the computer automatically.

5.7 The Appellant has stated that as the demand had increased the same month billing should reflect only the penalty and if there is repetition for the second

month, intimation has to be given to the consumer and his dated acknowledgement has to be obtained for effecting increase in maximum demand.

5.8 The Appellant has stated that there was a delay of more than 32 days from the application handed over date to the date of effecting tariff revision and with the way the appellant eligible for the refund of excess amount collected by way of temporary supply tariff and applicable compensation for the delay in effecting the tariff revision (Application handed over to AE/WEST/TOWN/VIRUDHUNAGAR on 05/05/2021 and tariff revised on 07/06/2021).

5.9 The Appellant has stated that excess amount collected, by way of fixed charges for the month of 11/2020 CC bill, on the same month itself penalty along with fixed charges. The excess fixed charges amount collected has to be refunded.

5.10 The Appellant has stated that as per TANGEDCO's Tamil Nadu Electricity Distribution Standards and Performance (DSOP) Regulations 2004 under section 9 (Change of Tariff) the tariff revision should be completed within 7 days from the date of application (Licensee has to give an acknowledgement for the application receipt to the consumer) for tariff revision and it should be completed as per the time schedule of 7 days.

5.11 The Appellant has stated that compensation has to be given by the licensee for causing delay in the tariff revision:

- As per DSOP Regulation updated till 31/07/2008, under section 21, page 16 with sub section 1(f) for non effecting of tariff change a compensation of Rs 100/- per day subject to a maximum of Rs 1,000/- is leviable.
- Under section 21 with sub division 6, Responding to consumer's complaints Rs 25/- for each day of the delay subject to a maximum of Rs 250/- is leviable.
- Under section 21 with sub division 8 Grievance Handling Rs 50/- is to be paid as compensation.

6.0 Arguments of the Respondent:

6.1 The Respondent has submitted that the appellant Thiru. K.A. Nagarajan, S/o. Ashok kumar is provided with a low tension electric service connection number 07-222-012-172, under the jurisdiction of Assistant Engineer/ Town/West/Virudhunagar in Virudhunagar Division of Virudhunagar Electricity Distribution Circle. The issue relates to the alleged delay caused in effecting the tariff change and collection of excess money towards fixed charges in the billings of the said service connection.

6.2 The appellant was originally sanctioned and provided with a single phase service connection for construction of a new residential building under tariff VI, on 02.09.2020 with sanction Load 1.32KW. Thereafter, meter board shifting was done on receipt of requisition from the petitioner 05.05.2021, after payment of the required charges. The appellant, simultaneously made an application for tariff change to his premises, on the very same day. After carrying out the meter board shifting works, the petitioner's premises was inspected by the competent authority, viz, the Assistant Executive Engineer / Town/ Virudhunagar. Upon inspection, it was noticed that the construction works were not completed in full shape and hence the same was informed by the inspecting authority to the mason, one Thiru. Karuppasamy who was present at the time of inspection, to complete the construction works in full shape and inform the same to TANGEDCO authorities, for passing the tariff change orders.

6.3 The Respondent has submitted that due covid-19 pandemic TANGEDCO offices were functioning with a limited strength of 50% due to lockdown and curfew measures imposed by the Government of Tamil Nadu, for various periods, from 06.05.2021 to 20.05.2021, from 10.05.2021 to 24.05.2021, from 24.05.2021 to 31.05.2021, from 31.05.2021 to 07.06.2021, from 07.06.2021 to 14.06.2021.

6.4 The Respondent has submitted that the petitioner through his e-mail representation dated 18.05.2021 to the CGRF had requested for effecting the tariff change. Even amidst the lockdown imposed due to covid-19 pandemic, the petitioner's premises was inspected by the Assistant Executive Engineer / Town/ Virudhunagar on 7-6-2021 and it was found that the house construction works

were completed and the house was utilized for dwelling even though the construction of compound wall and gate work were not completed.

6.5 The Respondent has submitted that the tariff change from tariff VI to I-A was effected on the date of inspection itself (07.06.2021) by the competent authority, since the construction works were found to be completed. The appellant's contention that he had occupied the house on 19/04/2021 and the production of house property tax receipt does not hold good since mere occupation of the premises would not suffice or adduce any evidence to the effect that the construction works were completed in all respects. In fact, the petitioner's statement in itself is contradictory that even though he had occupied the house on 19.04.2021, he made the tariff change application only on 05.05.2021 and mere occupation of a building does not mean or prove that the construction works were completed in full shape.

6.6 The Respondent has further submitted that as provided in Distribution standards of performance Regulations 2004, a consumer can utilize a service connection given to him for a purpose different from the purpose for which he originally obtained the service connection, only if the same tariff is applicable to the new purpose also. If a different tariff is applicable to the new purpose, the consumer shall apply to the Licensee before changing the purpose and a revised Test Report will be taken indicating the change in tariff.

6.7 The Respondent has submitted that the tariff change was effected without delay that too during the imposition of lockdown enforced on account of the covid-19 pandemic. It is further submitted that TANGEDCO officials and workmen were engaged in maintaining uninterrupted supply to the general public and attended to the Breakdown/Emergency works ensued during this crucial period of History. While effecting the tariff change to the appellant's premises a picture taken on 07.06.2021, shows that the temporary shed provided for keeping the construction materials was kept unremoved, the compound wall not built and the main entrance gate not fixed. Even then, the tariff change was effected since the residence was found to be utilized for domestic purposes on the given day.

6.8 The Respondent has submitted that it was not possible to issue any acknowledgement during the Pandemic period since the limited staff available in the section offices were utilized for the prime purpose of maintaining uninterrupted supply.

6.9 The Respondent has submitted that the petitioner had applied for a load of 1.32KW, while requesting a new service for building construction, on 02.09.20 and the service connection was effected on the same day for the same load. Naturally, the demand charges would be rounded to the next higher decimal, in this case it is 2KW. The fixed charges @ Rs.690 per KW for 2KW =Rs.690x2 =Rs.1380/- and the same was billed. It may be seen from the copy of consumer ledger entries taken from the LT billing software that the consumer/petitioner had been charged for 2KW towards fixed charges uniformly and there was no penalty imposed for exceeding the demand, as alleged by the petitioner.

6.10 The Respondent has submitted that while the CGRF order was in process, the petitioner again made a complaint to the Minnagam Call centre on 06.11.2021 about the same issue. Once the order copy was ready and despatched on 16.11.2021, the same was intimated by the Minnagam staff to the petitioner. The soft copy of the order was furnished to Minnagam for closing the complaint. But the petitioner made a complaint that the order copy was not received by him.

6.11 The Respondent has submitted that the previous postal communications made to the petitioner never failed nor the petitioner remarked about this in CGRF meeting. Only, the CGRF order copy posted through ordinary post was returned on 25.11.2021 with a remark 'Not Known'. Hence, the soft copy is uploaded in the web portal so as to ensure the same has been received by the petitioner. Again one more attempt was made and the hard copy was sent through Registered Post on 30.11.2021 and returned on 03.12.2021 with the same remark" Not known" and "Want of New Door No".

6.12 The Respondent has submitted that the petitioner was contacted through the Phone Number mentioned in his petition and as per his request the order copy was served in person by a TANGEDCO staff. The petitioner received the order and gave his acknowledgement without mentioning the date. Thus the petitioner's grievance was attended with great care and hence prayed to dismiss this appeal.

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 was effected with a service connection No.07-222-012-172 under the jurisdiction of Town/West/Virudhunagar section on 02-09-2020 for construction purpose. The service connection was billed under LT Tariff-VI upto 07.06.2021 i.e., the date on which tariff changed from LT Tariff VI to LT Tariff – IA.

7.3. The Appellant has two grievances before the CGRF of Virudhunagar, upon which appeal filed before this Electricity Ombudsman viz., (i) the alleged delay in effecting of tariff change from LT-VI to LT-IA and, (ii) alleged excess amount collected towards Fixed charges for having exceeded the Sanctioned demand in the Billing of 11/2020.

7.4. The appellant has stated that after completion of construction work, the house was occupied on 19.04.2021. An application was given on 05.05.2021 with the Assistant Engineer / Town / West / Virudhunagar for tariff change from LT-VI to LT-IA with a copy of Property Tax receipt. It is also stated that for such receipt of application, the Respondent AE/Town/West has not issued an acknowledgement for having received the Tariff change application.

7.5 In this connection, the Respondent has stated that the appellant's premise was inspected by the Assistant Executive Engineer/Town / Virudhunagar and he has stated that the construction work was not completed. But it is also seen from

the pleadings that, Meter Board shifting work was carried out by the Respondent on 05-05-2021 i.e., on the same date on which the appellant gave the application for tariff change.

7.6 The Respondent has not specified the portion of works which is pending / incomplete and for what reason the tariff change application was not considered. Moreover, it is accepted by the Respondent that the tariff change application received by him on 5.5.2021, but in this regard, the respondent neither acknowledged for having received the application nor sent any reply to the Appellant for not considering the request of tariff change.

7.7. From the documents and evidences produced by the appellant, it is noted that the application for tariff change was given by the appellant on 5.5.2021 after completion of the construction. As the Property tax receipt issued by the Municipality on 29.4.2021 itself for the house of the appellant and the Respondent also carried out the Meter board shifting on 5.5.2021, I believe that there was no reason to refuse the tariff change by the Respondent. Further, the Respondent has stated that TANGEDCO offices were functioning with insufficient staff strength, hence this might be the only reason for not having effected the tariff change in this Service connection. It is felt that the statement of the Respondent that the tariff change couldn't be effected as there was insufficient staff strength due to Covid 19 is not a valid reason since the meter Board has been shifted on the date of tariff change application itself. Further, the statement of the Respondent that it was not possible to issue acknowledgement during pandemic period due to limited staff availability is not acceptable. The Respondent also stated that the tariff change effected to the appellant on 07.06.2021 while the compound wall was not built and the main entrance gate not fixed. However, the Respondent has no specific mention about any ongoing construction or pending construction on the date of application i.e., on 5.5.2021.

7.8. In this regard, I would like to refer Regulation 9 of Tamil Nadu Electricity Distribution Standards of Performance Regulations 2004, which is given below -

"9. Change of Tariff

A consumer can utilize a service connection given to him for a purpose different from the purpose for which he originally obtained the service connection, only if the same tariff is applicable to the new purpose also. If a different tariff is applicable to the new purpose, the consumer shall apply to the Licensee before changing the purpose and a revised Test Report will be taken indicating the change in the tariff.

The Licensee shall effect change of tariff within seven days from the date of receipt of application from the consumer.”

7.9 From the above it is noted that the licensee shall effect change of tariff within seven days from the date of receipt of application from the consumer. In the case on hand, the appellant has applied for change of tariff from LT-VI to LT-IA, along with property tax receipt stating that the construction has been completed and has occupied for domestic purpose. However, the tariff change is refused by the Respondent without having any material evidence. On receipt of application, the respondent himself effected the meter board shifting on 5.5.2021, but on the other hand, the respondent failed to prove that the building construction was incomplete. Moreover, the respondent cannot cite, in this case, the pending construction of compound wall or fixation of main gate as Pending works; since the tariff change was effected by the same authority on 7.6.2021 without insisting of such pending works. Moreover, in general, any consumer cannot be insisted upon by the Respondent in any case to construct the compound wall/main gate.

Therefore I accept the argument of the appellant that the application was made on 5.5.2021 after completion of building construction works. The Respondent should have changed the tariff within seven days i.e. on or before 12.05.2021 as per the Regulation (9) of the TNE Distribution Standards of performance Regulations, 2004. Thus the petitioner is eligible for LT Tariff – IA with effect from 12.5.2021 itself and the billing made for the period from 12.5.2021 to 7.6.2021 under LT Tariff-VI shall have to be revised under LT Tariff – IA. Moreover, the petitioner shall be compensated by Rs.1000 under Regulation 21 (1)(f) of Distribution Standards of Performance.

7.10 Another issue raised by the appellant is for alleged levy of fixed charges for the demand recorded over and above the sanctioned demand in the Appellant's service. The appellant's service was initially issued with the sanctioned demand of 1.32 KW under LT Tariff-VI. The first month billing was done on 03-09-2020 under proportionate method, and the second Billing period is 11/2020. During 11/2020 assessment (03-11-2020), it is seen that the Maximum Demand recorded as 1.84 KW against the Sanctioned Demand of 1.32 KW. The excess demand charges levied Rs.22, and Fixed charges of Rs.1380. The Energy charges and Demand charges shall have to be levied for LT Tariff VI based on the prevailing Tariff Order dated 11-08-2017 of the TNERC. The relevant paras are given below:

“6.2 Tariff for Low Tension Supply Consumers

6.2.1 General Provisions applicable for Low Tension Supply

XXXX XXXX XXXX

(d) In case of LT Tariff IIB 1, II B2, IIC, IIIA 1, IIIA2, IIIB, V and VI, the fixed charges shall be calculated on the basis of the contracted demand. The monthly fixed charges shall be calculated on the basis of per kW or part thereof.

2.2.14 Low Tension Tariff VI:

<i>Tariff</i>	<i>Commission Determined Tariff</i>	
	<i>Fixed Charges (Rupees per kW per month)</i>	<i>Energy charges in paise/kWh</i>
<i>Low Tension Tariff VI</i>	345	1200

2.2.14.1 *This tariff is applicable for supply of power for temporary activities, construction of buildings and lavish illumination.*

2.2.14.2 *The electricity supply for the additional construction beyond 2000 square feet in the premises of an existing consumer shall be provided only through a separate service connection and charged under this tariff.*

2.2.14.3 *For temporary supply, the initial/in-principle approval for such construction or to conduct such temporary activity obtained by the applicant from the appropriate authority, wherever necessary, is adequate to effect the supply.*

2.2.14.4 *In case of conversion of temporary supply into applicable permanent supply, the same shall be done subject to compliance of codes/regulations/orders.*

****”

7.11 As per the above provisions of the Tariff order, for appellant's Service connection, the Fixed charges shall have to be billed at Rs.345 per kW or part thereof every month. And thus, the calculation of Rs.345 x 2kw x 2 months = Rs.1380, which is in order. It is to be clearly understood by the Appellant that the Fixed charges levied at Rs.1,380/- (rounded of to 2 kw) for every bi-monthly is based on prevailing Tariff Order dt.11.08.2017, and no fixed charges levied by the Respondent for exceeding the sanctioned demand as stated by the Appellant.

8.0 Observation:

8.1 The Respondent's practice of levy of 'Excess demand charges' or 'regularizing such capacity of Demand' which is within the "rounded off" capacity for which the Respondent has already collected the Development charges / Fixed charges is not in order.

9.0 Conclusion:

9.1. With the above findings in para 7 as above, I find merit on the claim of the appellant for refund of LT Tariff charges for the 32 days period under LT – IA and therefore, the respondent is directed to refund the excess amount collection under Tariff VI within 30 days from the date of receipt of this order. However, there is no merit in respect of another claim, regarding the method of billing of Fixed charges during 11/2020 which is said to be in line with the Tariff order in force.

9.2. A compliance report shall be submitted to the Electricity Ombudsman within 30 days from the date of receipt of this order.

9.3 With the above findings, the AP No. 93 of 2021 is finally disposed of by the Electricity Ombudsman. No costs.

(S. Devarajan)
Electricity Ombudsman

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

To

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2. The Executive Engineer/Distribution/Virudhunagar,
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3. The Superintending Engineer, – By Email
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4. The Chairman & Managing Director, – By Email
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5. The Secretary, – By Email
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6. The Assistant Director (Computer) –**For Hosting in the TNERC Website**
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