



TAMIL NADU ELECTRICITY OMBUDSMAN

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BEFORE THE TAMIL NADU ELECTRICITY OMBUDSMAN, CHENNAI

Present : Thiru. A. Dharmaraj, Electricity Ombudsman

Appeal Petition No.7 Of 2015

Thiru Baleswar Raman,
Flat No.6, Door No.Old No.67, New No.15,
Moorthy Street,
West Mambalam,
Chennai-600 033.

Appellant
(Party in person)

Vs

The Superintending Engineer,
Chennai Electricity Distribution Circle/South,
TANGEDCO,
110 KV SS Complex,
K.K. Nagar, Chennai 600 078.

Respondent
(Thiru Venkidswamy,
Executive Engineer /O&M/ K.K. Nagar)

Date of hearing : 24.3.2015

Date of Order : 09.10.2015

The appeal petition dated 1.1.2015 filed by Thiru Baleswar Raman, was registered as appeal petition No.7 of 2015. The above appeal petition came up for hearing before the Electricity Ombudsman on 24.3.2015. Upon perusing the appeal petition of the Appellant, Counter Affidavit of the Respondent and after hearing both sides, the Electricity Ombudsman passes the following order.

ORDER

1. Prayer of the Petitioner:

The Appellant prayed for refund of Rs.61/- collected towards Reconnection charges and BPSC and to order payment of Rs.500/- as compensation towards expenses, inconveniences, harassment , and injustice caused to him by TNEB.

2. Brief history of the case:

2.1. Thiru Baleshwar Raman is owner of S.C.No.238-026-244 which is coming under the jurisdiction of the Respondent.

2.2. The meter reading was taken on 15.9.2010 and he has paid the current consumption charges on 5.10.2010. As the due date for payment is 4.10.2010, the consumer has paid a sum of Rs.60/- towards reconnection charges and Rs.1/- towards BPSC.

2.3. The Appellant wrote letters to Assistant Accounts Officer on 5.10.2010, 7.12.2010, 20.12.10 and 29.1.2011 for refund of the reconnection charges and BPSC collected as he has paid the CC charges within 20 days excluding the day of entry of meter reading in the meter card. He filed a petition before the CGRF of Chennai EDC / South and the CGRF had directed the DFC to make suggestions to TNERC not to include the meter reading day in the 20 days period. But has not accepted the refund of Rs.61/- collected.

2.4. Aggrieved by the order of the CGRF, dated 28.11.2014, the Appellant filed the appeal petition before the Electricity Ombudsman.

3. Orders of CGRF:

The finding of the CGRF of Chennai EDC/South is extracted below:-

'Upon hearing the arguments of both the petitioner and the respondents, the forum directs Deputy Financial Controller to make suggestions to TNERC not to include the first meter reading day in the 20 days period. However, the request of the waiver of the penal levy is not feasible of compliance as per existing TNERC rules.'

4. Contentions of the Appellant:

4.1 His letter dt.5.10.2010, 7.12.2010, 20.12.2010 & 29.1.2011 to the Assistant Accounts Officer, TNEB, K.K. Nagar, Chennai 78 were all given in person. His last meeting with him was on 21.3.2011 when he said that his assistant was on leave and so he would phone him and convey action taken but did not do so.

4.2 You will surely agree that it is evident from the Findings of the forum that since it was wrong to count the day of reading the meter as the 1st of the 20 days the forum directed the Deputy Financial Controller to suggest to TNERC not to include that day among the 20 days.

4.3 He is agree with it and insisted that it should be given effect for the past period involving the date in his case also.

4.4 It is the wrong act of counting it as the 1st day which caused the date of his payment to be taken as the 21st day and he was wrongly penalized because of that faulty way of counting 20 days. So, he was not late or at fault in paying the charges on

5.10.2010. So, he is to be rightfully refunded the Rs.61/- i.e. R.C. (Reconnection Charges Rs.60/- belated payment charge (BPC) Rs.1/-

4.5 It is shocking and surprising to note the forums comment that however the request of the waiver of the penal levy is not feasible of compliance as per existing TNERC rules . The Chairman of the forum told him specifically that it had no scope to refund the penalty as it was the job of the Finance /Accounts department. He did not say that the money is not refundable to him. when his petition was to refund the money, and the forum agreed that counting the day of reading the meter was not to be taken as the 1st day and so directed the Deputy Financial Controller to act accordingly, what prevents it from ordering repayment of the penalty.

4.6 Its assumption of its scope falls short of the purpose of the forum. However, it only wrote that it is not feasible to comply with his request to waive off the penalty. It is only a statement that it cannot refund to me. It does not say that the finance /Accounts department must not pay to him.

4.7 He asked for a signed copy of the minutes of the hearing but was not given its, He was not shown the TNERC rules so it could not be proved that they do not allow refund to him.

4.8 If the rules do not specifically allow a refund, it cannot be taken that a refund cannot be made. Also, if the rules do not allow, they are immoral and improper and must be amended to allow it.

4.9 For many years he wasted much more money than the Rs.61/- by going to the TNEB office in K.K Nagar to give his complaints make copies of them and enclosures for them call by telephone many times, energy and effect to make the insensitive

unconcerned employees of TNEB to respond. They even refused to take his reminders. The Assistant Accounts Officer did not even come office on time on many days. He waited for even 2 hours on some days for him. The telephone would not even be answered or even ring. Whether the TNEB ensured that they were working or not despite rent being paid to BSNL must be enquired into. The phone rents are certainly adding to the operating cost of TNEB and such burden is borne by users of TNEB.

4.10 The advice stated on the meter card is to pay the charge in 20 days. It does not say whether the 20 days start on the day of the reading or on the next day. You can realize the error. If the advice was to pay in 1 day it cannot mean that it is to be paid on the day of the reading itself but will mean that it is payable the next day (1 day after reading). If the reading is at 5 PM, the charges cannot be paid on the same day before the cashier close work. Even if the reading is at 10 A.M., it is not expected to pay on the same day. So, it is evident to anyone that the reading day is excluded from the 20 days.

4.11 So, excluding the reading day of 15.9.2010, the 20th day was 5.10.2014, He was therefore very much on time and did not pay later. It is only the TNEB which erred. If it had a faulty programme made, either for computerized billing or for manual billing it should have been corrected. It is the thoughtlessness of the officials which caused the error in levying the RC and BPC.

5. Contentions of the Respondent:

The Respondent has contended the following in the counter affidavit filed.

5.1. Regulation 14 (1) (a) of the TNEB Supply Code, 2004 states that for LT services, the due dates shall be not less than 5 days from the date of entry

in the consumer meter card and 15 days clear notice shall be allowed prior to disconnection for non-payment. The second regulation also states that BPSC shall not be levied for LT services during the notice period.

- 5.2. In the instant case, the reading was entered in the consumer meter card on 15.9.2010 and the due date of five days to be reckoned from 15.9.2010. As such, the due date was 19.9.2010. Thereafter, the notice period reckoned from 20.9.2010 and it expired on 4.10.2010. The consumer paid the bill on 5.10.2010, i.e. ;beyond due date, notice period etc. Computerization is based on the second regulation and the same cannot be altered based on the wrong interpretations given by the complainant.
- 5.3. Appellant settled the CC charges only on expiry of the notice period, therefore the question of waiver of the penalty does not arise.
- 5.4. The Appellant has not contacted the concerned section officer in whose control the service connection No.238:026:244 exists. The Appellant grievance will be resolved forthwith. It is understood that the Appellant approached the TNEB office only after the payment of penal charges paid for his default in payment and for claiming refund of the penalty.
- 5.5. Practically it is not possible to print out the detailed rules in the white meter card. The instruction printed in the white meter card are to aware of the payment time, assessment and payment procedure, cautions about the payment to avoid disconnection of supply.

- 5.6. It is clearly stated in the white meter card the 20 days starts on the day of the reading taken itself (மின் கணக்கீடு செய்த 20 நாட்களுக்குள்) In the Appellant case itself shows that the Assessor has taken the meter reading on 15.9.2010 and the due date falls on 4.10.2010 and thus the time limit includes the date of meter reading and there is no error in the time limit fixed.
- 5.7. If the Appellant wants to pay the CC charges on the day itself he could have made the payment on the day itself. Further the Appellant wrongly presumed that if the meter reading is taken at 10 a.m. and 5 p.m, it is not expected that consumer will make payment of CC charges on the day itself. But the interested consumers are still making payment on the day itself through the collection center and by online and other facilities available for early payment and to avoid lost hour rush and penal charges etc. Therefore TNERC framed the rules by including the day of meter reading as 1st day and need not exclude the day the meter reading is taken.
- 5.8. As per the terms and conditions, if the amount of any bill remains unpaid within the period specified, the board may also without prejudice to any of its right under the agreement entered into by the consumer with the Board order supply of electricity to the consumer to be disconnected forthwith without further notice and reconnected only after collecting the entire arrears of CC charges, BPSC, RC fees, etc. and thus the officials not

acting thoughtlessly and not causing error in the RC & BPSC as stated by the Appellant.

- 5.9. If the Appellant found any hardship in payment of CC charges he could have complained to the concerned section officer in writing and immediate action will be taken by the officer concerned on the erring staff since the collection staff are under the control of the section officer. It is understood from the statement of the Appellant, he does not contacted the officer concerned in time for early payment and to avoid penal charges.

6. Hearing held by the Electricity Ombudsman:

- 6.1. To enable the Appellant and the Respondents to putforth their arguments in person, a hearing was held before the Electricity Ombudsman on 24.3.2015.
- 6.2. Thiru Baleshwar Raman, the Appellant herein has attended the hearing and put forth his arguments.
- 6.3. Thiru K. Venkidswamy, Executive Engineer / O & M, K.K. Nagar has attended the hearing on behalf of the Respondent and put forth his arguments.

7. Arguments of the Appellant:

- 7.1. Thiru Baleshwar Raman, the Appellant herein has attended the hearing and put forth his arguments.
- 7.2. The Appellant reiterated the contents of his appeal petition.
- 7.3. The Appellant argued that the reading and the other details were entered on 15.9.2010. Hence the due date for disconnection after giving 20 days

time shall be 5.10.2010 only. As he has paid the charges on 5.10.2010, the collection of RC charges and BPSC totaling Rs.61/- is not correct and has to be refunded.

- 7.4. The Appellant argued that if only one day was given for paying the CC charges then the consumer cannot pay the same on the date of reading if the reading was entered after 3.00 clock i.e. after closure of the cash counter. Citing the above he argued that while calculating the due date, the date of entry in the meter card shall not be taken into account.
- 7.5. The Appellant also argued that the due date shall be 20 working days from the date of entry in the meter card and not 20 calendar days as the counter was open only on working days.
- 7.6. The Appellant also argued that in CGRF they have not shown the rule which prevent the licensee to refund the RC charges & BPSC wrongly collected from him. He also argued that if the rule does not permit the refund then the rule has to be amended.
- 7.7. The Appellant also requested for a compensation of Rs.500/- towards expenditure, inconveniences, harassment and injustice caused to him by the employees of TNEB.
- 7.8. He also argued that his letter dated 5.10.2010 addressed to Assistant Accounts Officer was not replied and he also sent reminders on 7.12.2010 and 20.12.2010 for the refund. But in response to his letters, there was a reply on 18.12.2010. Hence he argued that he shall be given compensation for not giving reply as per Standards of Performance

Regulations. As there was no acknowledgement for 5.10.2010 letter, the Appellant informed that he has faxed his letter to SE / CEDC / South Office. But, he has no record on hand in proof of having sent the above representation by fax.

8. Arguments of the Respondent:

- 8.1. Thiru K. Venkidswamy, Executive Engineer / O & M, K.K. Nagar attended the hearing on behalf of the SE/CEDC/South and put forth his arguments.
- 8.2. He reiterated the arguments given in the counter affidavit.
- 8.3. The Executive Engineer argued that the 20 days time for payment of CC charges counted from the date of entry of reading and other details in the consumer meter card. Hence, the due date is 4.10.2010 only and not 5.10.2010 as argued by the Appellant.
- 8.4. The R.C. charges and BPSC are calculated automatically as per the software whenever the payments are made after the due date. There is no manual provision for entering the due date. The above is followed not only for the Appellant, but also for all the consumers of TANGEDCO.
- 8.5. The EE argued that the Appellant's letter dated 5.10.2010 said to be sent to Assistant Accounts Officer was not received at his office. In response to the Appellant's letter dated 7.12.2010, the AAO, Revenue Unit, K.K. Nagar Division has explained reasons for the collection of BPSC and the RC charges in his letter dated 18.12.2010 and as the same matter was raised again, no reply was sent thereafter. Hence, he argued that the licensee has sent reply to the Appellant and the claim of compensation is not

sustainable. He also argued that the claim of compensation was not raised in CGRF and hence cannot be raised in appeal.

9. Findings of the Electricity Ombudsman:

On a careful consideration of the arguments of the Appellant and the Respondent, I find the following are the issues to be decided.

- (i) Whether the date of entry in the meter card has to be excluded for calculating the due date?
- (ii) Whether any relief could be given for the Appellant?
- (iii) Whether the claim of Appellant that his letter dated 5.10.2010 was not answered by the Respondent and hence he shall be paid compensation is acceptable?
- (iv) Whether the claim of Appellant that a sum of Rs.500/- has to be paid as compensation towards expenses inconveniences, harassment and injustice caused to him is acceptable ?

10. Findings on the first issue:

10.1. The Appellant informed that the meter reading and CC charges were entered in the meter card on 15.9.2010. Hence allowing a time of 20 days, the due date for payment to avoid disconnection is 5.10.2010. As he has paid the CC charges on 5.10.2010, the collection of RC charges at Rs.60/- and BPSC of Re.1/- is wrong and has to be refund to him.

10.2. He also argued that 20 days calculation shall be only 20 working days as counters are opened on the working days only for payment.

- 10.3. He also argued that the CGRF has accepted his contention, but have not ordered refund of the amount collected.
- 10.4. The Respondent argued that the 20 days time printed in the meter card for payment of CC charges is from the date of entry of meter reading & CC charges on the meter card. Hence, the due date for payment is 4.10.2010. As the consumer has paid the CC charges belatedly BPSC of Re.1/- and RC charges at Rs.60/- was collected which is as per regulation only. Hence he argued that there is no mistake on the collected amount.
- 10.5. The Respondent also argued that the due date calculation is done by the computer as per the software provision and is applicable to all consumers. There is no manual calculation and hence argued that there cannot be any error in calculation.
- 10.6. The respondent argued that as per the procedure in vogue they made the software by including the date of entry in the meter card for calculating the due date and notice period and the same is being followed for number of years. Hence, argued that from the date of entry in the meter card mean, including the date of entry in the meter card.
- 10.7 In order to find the due date, I would like to refer regulation 14 of Tamil Nadu Supply Code which is extracted below:-

“14. DUE DATES AND NOTICE PERIODS

(1) The Licensee shall provide the following minimum days with regard to due dates, notice period for payment of tariff related electricity charges:

(a) For LT Services, the due date shall be not less than 5 days from the date of entry in the consumer meter card. 15 days clear notice period shall

be allowed prior to disconnection for non-payment. Belated payment surcharge shall not be levied for LT services during the notice period.

(b) For HT Services, the due date shall be not less than 7 days from the date of billing. If the last day of the due date happens to be a holiday, the due date shall be extended to till the next working day. 15 days clear notice period shall be allowed prior to disconnection for non-payment. In case the last day of the notice period happens to be a holiday, the period of notice will get extended and the last day for payment to avoid disconnection will be the next working day. Belated payment surcharge shall be levied for HT services during the notice period as specified in this Code.

(2) In the case of Low Tension consumers who do not pay their current consumption charges as per the periods specified by the Licensee in the consumer meter card, the printed notice period in the consumer meter card shall be construed as the notice to the consumer. Payments may also be accepted during the notice period. If the last day included in the notice period happens to be a holiday, the period of notice will get extended and the last day for payment to avoid disconnection will be the next working day.

(3) Supply to such Low Tension consumers as specified above is liable to be disconnected after the expiry of the notice period.

(4) Bills rendered to High Tension consumers and the charges incorporated in the consumer meter cards of Low Tension consumers shall be paid as stipulated and are subject to BPSC, for delayed payment as stipulated in this Code.

(5) If the amount of any bill remains unpaid beyond the period specified, the Licensee may also, without prejudice to any of its rights under the agreement entered into by the consumer with the Licensee, order supply of electricity to the consumer to be discontinued forthwith without further notice and keep the service connection disconnected until full payment for all obligations pending and the charge for the work of disconnection and reconnection has been paid. Such discontinuance of supply of electricity shall not relieve the consumer of his liability to pay the minimum monthly charges nor shall such discontinuance affect any right, claim, demand or power which may have accrued to the Licensee hereunder.”

- 10.8 On a careful reading of the said regulation, it is noted that the due date shall be not less than 5 days from the date of entry in the meter card and 15 days clear notice period shall be allowed before disconnection for non payment for LT services belated payment surcharge shall not be leviable during the notice period (i.e.) BPSC will be levied only on expiry of notice period. As per the regulation 20 days time (5+15 days) shall be given for payment of the CC charges and if the consumer fails to make the payment, the service is liable for disconnection.
- 10.9 As the due date period and notice period have been mentioned as 5 days and 15 days the Appellant's argument of 20 working days have to be allowed instead of 20 calander days is not tenable. It is also to be pointed out that if the last day included in the notice period happens to be a holiday then the period of notice will get extended and the last day for payment to avoid disconnection will be the next working day. Hence, if the 20 days time means 20 working days there is no need to specify the above in the regulation.
- 10.10 In the regulation it has been specified that the due date shall not be less than 5 days from the date of entry in the meter card. Here there is no mention whether, the date on which the entry was made is excluded or included for counting the number of days for arriving the due date. Hence, a clarification was obtained from the Secretary/TNERC in this regard.
- 10.11 The Secretary, TNERC in his communication dt. 25.9.2015 has intimated that the date of entry of reading and amount of bill in the meter card shall be excluded for the purpose of counting the due date and notice period. Further it was also

intimated that the above clarification can take effect prospective only. The relevant para of the letter is extracted below :

U.O.No.TNERC/D(T)/D(T1)/F.Interpretation of Due Date/D.131/2015, dated 25.9.2015.

*Sub: Interpretation of Regulation No.14 of the TNE Supply Code, 2004
Due Dates and Notice Periods – Clarification Issued –Reg.
Ref: 1.Your U.O.No.TNEO/A.P.No.7 of 2015/D. /2015, Dated
06.04.2015*

With reference to the above subject, it is stated that for interpretation of the Due Dates Notice Periods in respect of LT Services in Regulation 14(1)(a) the number of days shall be taken as 5 clear days + 15 clear days = 20 clear days. The date of entry of reading and amount of bill in the meter card shall be excluded for the purpose of counting the Due Date and Notice Period. This clarification can take effect prospectively.

*Sd/xxx
Secretary/TNERC”*

10.12 In view of the clarification given by the Secretary, TNERC, it is held that the date of meter reading has to be excluded for calculating due date. However, as it was also intimated that the above clarification can take effect prospectively the exclusion of meter reading for the calculation of due date shall be effective from 25.9.2015 only.

11. Findings on the second issue:

11.1 The Appellant argued that the due date for payment of 9/2010 assessment period to avoid disconnection is 5.10.2010 if the date of meter reading is excluded for arriving the due date for disconnection for non payment. As he has paid the CC charges on 5.10.2010 the Appellant argued that the collection of Rs.60/- as RC charges and Re.1/- as BPSC is wrong and has to be refunded.

11.2 As per the clarification given by the Secretary/TNERC, the date of meter reading has to be excluded for calculating the due date and notice period. However, it

has also been clarified that the above clarification can take effect prospectively only. Hence, the exclusion of the reading date for calculating the due date and notice period shall be effective from 25.9.2015 onwards (i.e.) the date on which the clarification was issued. As the disputed bill is pertaining to 9/2010 assessment period, the exclusion of the reading date for calculation of the due date is not applicable to above bill. Hence, I am unable to give any relief to the Appellant.

12. Findings on the third issue :

12.1 The Appellant argued that his letter addressed to Assistant Accounts Officer, Revenue Branch, K.K. Nagar for refund of Rs.61/- was faxed to the AAO on 5.10.2010 but no reply was given to him. He also argued that he had sent reminders on 7.12.2010, 20.12.2010 and 29.1.2011. As his representation dt.5.10.2010 was not replied, the Appellant argued that compensation as per DSOP Regulation has to be paid to him.

12.2 The Respondent argued that they have received the letter dated 7.12.2010 and have replied to that letter on 18.12.2010. As the subsequent letters are on the same subject matter, no reply has been sent. The Respondent also informed that they have not received the letter dated 5.10.2010 addressed to Assistant Accounts Officer, K.K. Nagar. In view of the above position the Respondent argued that the Assistant Accounts Officer has responded to the representation dated 7.12.2010 of the Appellant in time and hence argued that the payment of compensation does not arise. He also argued that the compensation issue was not raised in the CGRF and hence could not be raised in the appeal.

12.3 It is a fact that the Appellant has not raised the issue of payment of compensation for not responding to his representation dated 5.10.2010 in the CGRF and in the Appeal petition also. The issue was raised only on the hearing date. Further, the Appellant has also not enclosed any proof in support of having sent the letter by fax to the Accounts Officer, K.K. Nagar or his acknowledgement for having received the said letter. The Respondent has also denied the receipt of the above letter dated 5.10.2010. As the Appellant has not established the receipt of the representation dated 5.10.2010 by the Assistant Accounts Officer, K.K. Nagar, I am unable to order any compensation to the Appellant for not responding to his letter dt.5.10.2010.

13. Findings on fourth issue :

13.1 The Appellant has prayed compensation of Rs.500/- towards expenses, inconveniences, harassment and injustice caused to him.

13.2 In this regard, I would like to refer, regulation 7(11) of the CGRF and Electricity Ombudsman which is extracted below :

(11) In respect of grievances on non implementation of standards of performance of licensee on consumer service specified by the Commission under section 57(1) of the Electricity Act 2003, if the forum finds that there was default of the licensee, it shall only hold that the consumer is entitled to the compensation and shall state that, the consumer if agreed, can accept the compensation prescribed by the Commission in the relevant Regulations.

13.3 On a careful reading of the said regulation 7(11) of CGRF and Electricity Ombudsman, it is noted that in respect of grievances on non implementation of standards of performance of licensee on consumer service specified by the

Commission alone, the CGRF and Electricity Ombudsman can hold that the consumer is entitled for compensation.

- 13.4 The events and the compensation payable are specified in the table given under regulation 21 of Distribution Standards of Performance Regulation. The compensation claimed towards expenses, inconveniences, harassment and injustice is not covered in regulation 21 of Distribution Standards of Performance Regulations. Hence, I am not issuing any order on the above.

14. Conclusion:

- 14.1 As per the clarification issued by the Secretary/TNERC, the date of entry of reading and amount of bill in the meter card shall be excluded for the purpose of counting the due date and notice period and the above clarification can take effect prospectively only. As the disputed bill pertains to 9/2010 assessment period and falls before the clarification date of 25.9.2015, I am unable to order refund of Rs.61/- paid towards R.C. charges and BPSC by the Appellant while paying the CC charges for 9/2010 assessment period.
- 14.2 As the compensation claimed by the Appellant is not in respect of the events for which commission has fixed compensation, the prayer of the Appellant to order compensation of Rs.500/- is not considered by me.
- 14.3 With the above findings, the A.P.No.7 of 2015 is finally disposed by the Electricity Ombudsman. No costs.

(A. Dharmaraj)
Electricity Ombudsman

To

1) Thiru Baleswar Raman,
Flat No.6, Door No.Old No.67, New No.15,
Moorthy Street,
West Mambalam,
Chennai-600 033.

2) The Superintending Engineer,
Chennai Electricity Distribution Circle/South,
TANGEDCO,
110 KV SS Complex,
K.K. Nagar, Chennai 600 078.

3) The Chairman,
(Superintending Engineer),
Consumer Grievance Redressal Forum,
Chennai Electricity Distribution Circle/South,
TANGEDCO,
110 KV SS Complex,
K.K. Nagar, Chennai – 600 078.

4) The Chairman & Managing Director,
TANGEDCO,
NPKR Malaigai,
144, Anna Salai,
Chennai – 600 002.

5) The Secretary
Tamil Nadu Electricity Regulatory Commission
No.19A, Rukmini Lakshmi pathy Salai
Egmore,
Chennai – 600 008.

6) The Assistant Director(Computer), - **FOR HOSTING IN THE TNEO WEBSITE PLEASE**
Tamil Nadu Electricity Regulatory Commission,
No.19-A, Rukmini Lakshmi pathy Salai,
Egmore,
Chennai – 600 008.