



# TAMIL NADU ELECTRICITY OMBUDSMAN

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## BEFORE THE TAMIL NADU ELECTRICITY OMBUDSMAN, CHENNAI

**Present: Thiru. S. Devarajan Electricity Ombudsman**

**Appeal Petition No. 29 of 2018**

Thiru. A. Senthilkumar,  
S/o Arumugam,  
No.27, 7<sup>th</sup> Cross Street,  
Dhandeswara Nagar,  
Velacherry, Chennai – 600 042.

. .... Appellant  
(Rep by Thiru. C. Selvaraj)

Vs

The Executive Engineer/O&M/Porur,  
Chennai Electricity Distribution Circle/South-1,  
TANGEDCO,  
110/33 KV SRMC SS Complex,  
Porur, Chennai – 600 116.

. .... Respondent  
(Rep by Thiru. P. Naresh Babu, AEE/O&M/Porur)

**Date of hearing : 5.9.2018**

**Date of Order : 12.12.2018**

1. The Petition dt. 25.6.2018 filed by Thiru. A. Senthilkumar, S/o Arumugam, No.27, 7<sup>th</sup> Cross Street, Dhandeeswara Nagar, Velachery, Chennai – 600 042 was registered as Appeal Petition No.29 of 2018. The above appeal petition came up for hearing before the Electricity Ombudsman on 5.9.2018. Upon perusing the appeal petition, counter affidavit and after hearing both sides, the Electricity Ombudsman passes the following order.

## ORDER

### **1. Prayer of the Appellant:**

The Appellant prayed to withdraw audit slips, to defer payment of ACCD, compensation for not responding to his representation and compensation for loss due to illegal disconnection of his service by the respondent.

### **2. Brief History of the case:**

2.1 The Appellant has a commercial service connection No.324-008-458 for his water plant.

2.2 AE/O&M/Porur in his letter dt.27.10.2017 has forwarded to the Appellant two audit slips raising short fall due to meter defect for Rs.2,99,000/- for the period from 11/13 to 7/14 and for Rs.3,49,999/- pertaining to the above service for the period from 3/2014 to 07/2014 due to arithmetic inaccuracy.

2.3 Consequent to the idling of the water plant, the appellant programmed to reduce the contracted load for utilizing the service for some other purpose. Hence, requested to defer payment of ACCD as per the account summery.

2.4 The Appellant has represented to the respondent to withdraw the audit slips in his letter dt.17.01.2018. As there was no response from the respondent, the appellant has claimed compensation. The Appellant has also requested compensation for the loss due to illegal disconnection of his service.

2.5 The Appellant has represented to the CGRF of Chennai EDC/South-1 for the redressal of the above grievances in his petition dt.7.02.2018.

2.6 The CGRF of Chennai EDC/South-1 have issued its order on 18.04.2018. Aggrieved over the order, the Appellant preferred this appeal petition before the Electricity Ombudsman.

### **3. Order of the Forum**

The CGRF of Chennai Electricity Distribution Circle/South-1 has issued its order on 18.4.2018. The relevant portion of the order is extracted below:-

#### **“Order of the forum:**

*From the above, it is found that the consumer has not furnished any valid document for the proof of vacancy of the premises/un-occupancy of the premises since the petitioner has furnished the following documents*

*The petitioner has furnished copy of rental agreement document from 13.11.2013 to 12.11.2018 which includes meter defective period 11/13 to 7/14 also. The petitioner has also furnished copy of the certificate from Bureau of Indian Standards dt. 20.05.14 for grant of BIS certification marks license which cannot be taken as proof for vacancy of the premises.*

*The method of arriving of audit short fall by the Audit vide LT Audit Slip No.35 dt.23.09.15 is as per TNERC rules.*

*The Audit slip issued by vide Audit Slip No.31 dt.08.03.17 for the same period is redundant and also the audit has taken FR of defective meter to arrive short fall.*

*Hence, this forum directs the respondent to take necessary action to collect Rs.2,99,000/- issued by LT Audit slip No.35 dt.23.09.15 and to withdraw the audit slip Audit slip No.31 dt.8.3.17.*

*A compliance report shall be submitted within 45 days from the date of receipt of this order. ”*

### **4. Arguments of the Appellant furnished in the Appeal Petition :**

4.1 Two numbers audit slips were forwarded by the AE/O&M/Porur mechanically without ascertaining the correctness of the same.

4.2 The CGRF has also acted in the same manner, even without the participation of the member who said to have been signed the order. In fact the member was not present. It was assured during the enquiry that the member was on his way and held up at the traffic. But he did not turn up. There is no possibility of preparing and signing the order on 18.4.2018. It is actually an anti dated order. The order of the CGRF is not maintainable as the enquiry was held and completed by the Chairman only.

4.3 The order of the CGRF lacks merit, as it is silent on their relief sought for in the application. No reason for arriving at the conclusion is found in the order. It is not known how the meter was declared as defective during 11/13 to 7/14.

4.4 There was recording in the energy meter for the consumption from 9/2013 to 3/2014. There was no change of meter in 9/2013. Average billing was done for 7/2014 taking in the account the consumption during the month of 7/2013 & 9/2013. Hence the necessity for bill revision from 11/2013 remains unexplained.

4.5 The lack of responsibility and the part of the TNEB is evident from the irresponsible forwarding of two audit slips for a single service.

4.6 It is also to be mentioned that CGRF has actually received the complaint on 8.2.2018 as per the postal record. Actually it is requested by the circle management to supply the copy of the complaint on 23.3.2018 stating the original complaint was not traceable. It is unfortunate CGRF is claiming the complaint was received only on 23.3.2018.

4.7 If the energy meter was already defective as claimed by the management and CGRF, same would have been replaced within 30 days as per the existing rules. It is not fare on the part of the TNEB and the CGRF to penalize the consumer for the lapses and irregularities on the part of the TNEB.

4.8 It is also seen from the memo of EE/O&M/Porur dated 9.5.2018 that action was initiated against the assessment staff for improper by monthly readings. So it

is evident that the TNEB still remains under dilemma whether it all happen because of defective meter or improper bimonthly readings. Throwing the responsibility arising out of this dilemma to the consumer and trying to penalize him is totally unfair, illegal, and also not maintainable.

4.9 Hence, it is requested before the Ombudsman to kindly order for all the 4 points as prayed for before the CGRF in a just and fair manner and render justice.

**5. Arguments of Respondent furnished in the counter:**

5.1 AE/O&M/Porur/Rural in his letter dated 27.10.17, the consumer No.324-008-458 of the petitioner had been insisted to pay a sum of Rs.2,99,000 & 3,49,999 summing to 6,48,999 towards average shortfall for the defective period 11/2013 to 07/2014 followed by a second slip was raised for the incorrect arithmetical correctness for the period 03/14 to 7/14.

5.2 The primary audit shortfall derived by BOAB, based on the meter change and the consumption utilized from 09/2014 and 11/2014. Moreover, the shortfall amount was resulting based on the change in KW from 1.1 to 17, as per the TNERC Supply code 11 (4) page no. 28. In continuation, the average consumption was taken by summing the 2 bi-monthly usages of the succeeding month of 09/2014 & 11/2014.

5.3 In continuation, due to the negligence of the petitioner for the primary audit shortfall raised, the BOAB Audit raised the second shortfall based on the reading type specified as defective, where the usage was calculated as per the consumer ledger start reading and end reading was 48950, but the system wrongly generated the consumed units as 1625. So the amount paid by the petitioner for 1625 units was deducted and the balance 47325 units were charged as the shortfall for arithmetical inaccuracy.

5.4 Since there was no response from the petitioner for both the shortfall amount, besides neglected to pay the current consumption charges as well as shortfall amount raised by the audit within the due date, thus from 11/2017 the service was disconnected till 20/06/2018.

5.5 Where the consumer was not satisfied with the shortfall amount raised by the BOAB audit went with a plea to CGRF forum on 18.04.2018. On the CGRF forum the plea was discussed and order was issued to the petitioner for the service no 324-008-458.

5.6 The CGRF forum insisted the petitioner to pay the Audit shortfall amount issued by LT Audit slip No.35 dt.23.09.15. Instead of making the payment the petitioner has approached the Honourable Ombudsman/ TNERC/ Egmore Chennai -18.

5.7 The amount levied is as per TNERC Supply code 11 (4) page no. 28. Assessment of billing case where there is no meter or meter is defective:

Where the meter becomes defective immediately after the service connected is effected, the quantum of electricity supplied during the period in question is to be determined by taking the average of electricity supplied during the succeeding four-month periods after installation of the correct meter, provided the conditions in regard to the use of electricity in respect of such low tension service connections are not different. The consumer shall be charged monthly minimum provisionally for defective period and after assessment the actual charges will be recovered after adjusting the amount collected provisionally.

Thus the shortfall amount derived as above said was based on the consumption of 09/2014 and 11/2014 which is succeeding months taken for due to the load change.

Hence the amount levied to the petitioner for the period 11/2013 to 07/2014 in the above said service connection is genuine.

In conclusion, It is humbly requested the Honourable Ombudsman to pass the orders and insists the petitioner to pay the balance amount to TANGEDCO at the early, please.

**6. Hearing held by the Electricity Ombudsman:**

6.1 To enable the Appellant and the Respondent to put forth their arguments in person a hearing was conducted on 5.9.2018.

6.2 The appellant's representative Thiru. C. Selvaraj attended the hearing on behalf of the Appellant and put forth his arguments.

6.3 Thiru. P. Naresh Babu, Assistant Executive Engineer/O&M/Porur has attended the hearing and put forth his arguments.

**7.0 Arguments put forth by the Appellant on the hearing date :**

7.1 Appellant's representative Thiru. C. Selvaraj reiterated the contents of the Appeal petition.

7.2 The Appellant has contended that the basis and reason for declaring the meter in SC No.324-008-458 as defective during the period from 11/2013 to 07/2014 is not given by the respondent. The Appellant contended that the current consumption has been recorded during 9/2013 to 03/2014. Whereas the meter has been changed in 3/2013 and also in 07/2014 due to defect in the meter. There was no change of meter during the period 09/2013 to 03/2014 confirming that the meter is not defective during the above period.

7.3 The Appellant argued that the respondent themselves are not sure either the meter is defective or improper bimonthly reading and hence penalizing the appellant is unfair.

7.4 The Appellant hence prayed to render justice on all the four points raised by him before CGRF.

**8.0 Arguments put forth by the Respondent on the hearing date:**

8.1 Thiru. P. Naresh Babu, Assistant Executive Engineer/O&M/Porur has reiterated the contents furnished in the counter affidavit.

8.2 The respondent stated that the first audit slip raised (Rs.2,99,000/-) claiming shortfall for the period 11/2013 to 07/2014 is due to defective meter based on the load enhancement from 1.1kw to 17kw.

8.3 The second audit slip raised (Rs.3,49,999/-) for the period 03/2014 to 07/2014 is due to arithmetical inaccuracy. In this case the reading of 48950 units has been recorded on 10.07.2014, whereas the initial reading is 4020. Bill for 07/2014 has wrongly been raised for 1625 units instead of actual consumption of 47325 units and therefore the audit has claimed the same as shortfall for arithmetic inaccuracy.

8.4 The Appellant has not paid the amount raised in the two audit slips. Hence, the service connection has been kept disconnected from 11/2017.

8.5 The respondent contented that the amount levied is as per TNERC Supply Code 11(4) where the meter is defective and assessment has been done based on the average of successive current consumption units in 9/2014 and 11/2014 as the meter has been changed in 07/2014.

## **9. Findings of the Electricity Ombudsman:**

9.1 The Appellant has prayed the following :

- i) Compensation for not responding to the letter dated 17.01.2018 addressed to the respondent (EE/O&M/Porur).
- ii) Order for withdrawing both the audit slips
- iii) Order to defer the payment of ACCD
- iv) Order payment of compensation for the loss inflicted upon the appellant due to illegal disconnection.

9.2 On a careful consideration of the arguments put forth by the appellant and the respondent, the findings of the Ombudsman on the appellant's above prayers are given below:

## **10. Findings on the Appellant's prayer (i)**

10.1 The Appellant has requested to award compensation for the non compliance of the standard specified in the TN Electricity Distribution Standards of Performance Regulations for not responding to the consumer's complaint within the stipulated period.

10.2 The Appellant has sent a letter dated 17.01.2018 addressed to the Executive Engineer/O&M/Porur.

10.3 As the Appellant has requested to award compensation for not responding to the consumer's complaint as per regulation, I would like to refer regulation 17 of Distribution Standard of Performance Regulations which is extracted below :

### ***" 17. Responding to Consumer's Complaint***

*If any consumer makes a complaint in writing to the Territorial Engineer of the concerned licensee then, the Territorial Engineer concerned shall reply to the consumer within ten days after receipt of the letter. In case the Territorial Engineer requires to visit the site or consult any other officer to give a comprehensive reply, the Territorial Engineer shall explain to the consumer as to why a substantive response cannot be sent immediately and intimate the name address and telephone number of the Officer dealing with the complaint. The Territorial Engineer shall also ensure that a substantive response is sent to the consumer within twenty days of receiving the complaint letter."*

10.4 On a careful reading of the said regulation 17, it is noted that the concerned Territorial Engineer(Assistant Engineer of the concerned section) pertaining to the SC No.324-008-458 has to give reply within 10 days of receipt of the petition or within 20 days if he has to inspect the site or consult other officers to give a comprehensive reply.

10.5 In the case on hand, the appellant has filed his complaint to Executive Engineer/O&M/Porur on receiving the notice from the Assistant Engineer/O&M/Porur/Rural directing to settle the shortfall amount of Rs.6,48,999/- raised through audit slips pertaining to the SC No.324-008-458 and requested to withdraw

the audit slips. The appellant has not filed the complaint with the Territorial Engineer for redressal of his grievance. The Territorial Engineer for this SC No.324-008-458 is the Assistant Engineer /O&M/Porur/Rural, Chennai EDC/South-1 Chennai.

10.6 The compensation will arise only when the licensee failed to respond to the consumer complaint within a time limit specified as per regulation 17 of TN Electricity Distribution Standards of Performance Regulations 2004. Here, the Appellant has not made the complaint in writing to the Territorial Engineer of the concerned licensee i.e the AE/O&M/Porur/Rural, Chennai EDC/South-1. Therefore, as per regulation 17 of TN Electricity Distribution Standards of Performance Regulations 2004, I am unable to award compensation to the Appellant.

#### **11. Findings on the Appellant's Prayer (ii)**

11.1 The Appellant has requested to withdraw both the audit slips raised claiming shortfall for an amount of Rs.6,48,999/- (Audit slip No.35 for Rs.2,99,000/- + Audit slip No.31 for Rs.3,49,999/-) pertaining to the SC No.324-008-458. Let us consider one by one.

#### **Audit slip No.35 for Rs.2,99,000/-**

11.2 The audit slip No.35 dt.23.9.2015 has been raised for the shortfall amount of Rs.2,99,000/- for the period due from 11/2013 to 07/2014 due to meter defect after load change. The Appellant has contended that the respondent has declared meter as defective from 11/13 to 07/14 when the energy meter is recording actual consumption. Meter became defective only during 7/2014 and average billing has also been made for 07/2014 based on 07/2013 & 09/2013 consumption.

11.3 The respondent has stated that the average shortfall claimed for the period from 11/2013 to 7/2014 is due to meter defect immediately after the load change from 1.1 kw to 17.1 kw as per regulation 11(4) of the TNERC Supply Code.

11.4 On perusal of consumer ledger it is found that even after load change in 9/2013 the same meter is in service upto 21.07.2014. During the hearing the respondent has accepted that there was no change of meter. Only in order to make load change from 1.1.KW to 17.1 KW, the meter change entry was done due to inherent problem in the computer system. Further reason for meter change is also recorded as normal. Therefore I am of the opinion that the meter is not defective from 09/2013 to 06.05.2014 and the meter change entry was made only to incorporate the load change on 09.09.2013.

11.5 Further a new meter was installed on 23.07.2014, therefore it may be construed that meter might have become defective any day between 06.05.2014 to 10.07.2014. Therefore defective average has to be made only for the 07/2014 assessment period. But the respondent has not downloaded the meter while replacing the defective meter on 20.7.2014 to confirm that the meter is defective. During the hearing it was ascertained that defective entry was made in the computer by the assessor and the concerned Section Officer has neither tested the meter nor released the same for MRT inspection to prove the defectiveness. In the absence of test report and CMRI data I am unable to declare the meter is defective for 07/2014 assessment also.

**Audit slip No.31 for Rs.3,49,999/-**

11.6 Audit slip No.31 for Rs.3,49,999/- has been raised due to arithmetical inaccuracy for the period from 03/2014 to 07/2014.

11.7 As per my findings in para 11.4 and 11.5, the meter is in working condition. Further, the respondent has also recorded the status of meter as normal in the consumer ledger for all the readings taken in 9/2013, 11/2013, 1/2014, 3/2014 & 5/2014. Only on 10.7.2014 it has been recorded as meter defective with end reading as 48950 units and initial reading as 4020 units. Since the meter is defective when taking reading on 10.07.2014, the respondent has calculated defective average as 1625 and failed to consider the final reading.

11.8 Further from the arguments of both the appellant and respondent and with the available records, it is clear that the assessment staff of the licensee has made improper assessment entries. It may be noted that end reading 4020 units made on 06.03.2014 remains same for 5/2014 assessment also and the end reading entered on 10.07.2014 is 48950 units. Before load changing, the consumption recorded during 7/2013 and 9/2013 assessment months are 1780 units and 1470 units respectively. After load changing, the consumption recorded during 11/2013, 01/2014, 03/2014, 05/2014 assessments months are 530 units, 70 units, 160 units, 0 units respectively. Therefore the difference of 44930 units (48950 units – 4020 units) might have been consumed right from 09.09.2013 i.e. from the date of load change.

11.9 As per my findings in the foregoing paras and the facts apparent on the face of record, I am of the opinion that the meter is not defective and final reading entered on 10.07.2014 is to be taken as actual end reading and the shortfall amount levied vide Audit slip No.31, dated 08.03.2017 towards arithmetical inaccuracy is found to be in order.

11.10 In view of the foregoing discussion, the argument of the respondent that the meter is defective during the period from 11/2013 to 7/2014 is not valid and the current consumption reading recorded is also not correct. Hence, the prayer of the appellant to withdraw the audit slip 35, dated 23.9.2015 is accepted and I am unable accept the prayer of the appellant in respect of the audit slip 31, dt.8.3.2017.

## **12. Findings on the Appellant's prayer (iii)**

12.1 The Appellant has requested to defer the payment of ACCD pertaining to the SC No.324-008-458 stating that the water plant is idle and is programmed to reduce the contracted load. It is observed that the ACCD pertains to the preceding year which is to be paid by the appellant as long as the service connection is live. There is no provision to direct the respondent to defer the payment of ACCD.

However, the appellant is eligible to get back the excess amount if any by way of adjustment /refund consequent to reduced demand and consumption in the successive years as per the regulation in force. Hence, I am unable to consider the appellant's prayer to defer the payment of ACCD.

### **13. Findings on the Appellant's prayer (iv)**

13.1 The Appellant has requested compensation for the loss inflicted upon him due to disconnection of service.

13.2 In this regard, I would like to refer regulation (21) chapter (3) of TN Electricity Supply Code, 2004 which is extracted below :

## **21. DISCONNECTION OF SUPPLY**

*Section 56 of the Act with regard to disconnection of supply in default of payment reads as follows :*

*“(1). Where any person neglects to pay any charge for electricity or any sum other than a charge for electricity due from him to a Licensee or the generating company in respect of supply, transmission or distribution or wheeling of electricity to him, the Licensee or the generating company may, after giving not less than fifteen clear days' notice in writing, to such person and without prejudice to his rights to recover such charge or other sum by suit, cut off the supply of electricity and for that purpose cut or disconnect any electric supply line or other works being the property of such Licensee or the generating company through which electricity may have been supplied, transmitted, distributed or wheeled and may discontinue the supply until such charge or other sum, together with any expenses incurred by him in cutting off and reconnecting the supply, are paid, but no longer:*

*Provided that the supply of electricity shall not be cut off if such person deposits, under protest,—*

*(a) an amount equal to the sum claimed from him, or*

*(b) the electricity charges due from him for each month calculated on the basis of average charge for electricity paid by him during the preceding six months.*

*whichever is less, pending disposal of any dispute between him and the Licensee.”*

13.3 On a careful reading of the above said regulations, it is noted that the respondent is empowered to disconnect the supply of electricity where any person neglect to pay any charge for electricity or any sum other than a charge for electricity due from him to a licensee after giving notice in writing to such person and without prejudice to his rights to recover such charge or other sum by suit.

13.4 In this case, the appellant could have paid the due amount with protest and then claim the disputed amount by filing complaint with the proper forum. Even in this appeal case, before filing appeal petition, the appellant has paid 25% of the disputed audit slip amount. Hence, I am not in a position to award compensation for the loss due to service disconnection which has been done by the respondent as per the regulation.

**14. Observation :**

With the contracted load of 1.1 kw, current consumption is 1780 units and 1470 units in 7/2013 and 9/2013 respectively. After enhancement of load from 1.1 kw to 17.1 kw the current consumption are 530 units, 70 units & 160 units during 11/2013, 1/2014 and 3/2014 respectively which should have prompted the respondent to carry out site inspection, verification & checking of connected load, operating conditions of the water plant and healthiness of the meter. The field staff recording current consumption reading, supervisory staff and the officers of the licensee have failed in their duties. Periodical review of consumer ledger, defective meter register and inspection of services is necessary.

The respondent should have downloaded the CMRI data to ascertain the healthiness of the meter while replacing the defective meter. The reason for having not downloaded the CMRI data is not known.

**15. Conclusion :**

15.1 In view of my findings in para 10 & 13, the appellant is not eligible for compensation in respect of prayer (i) & (iv).

15.2 As per my findings in para 11, the audit slip no.35, dt.23.9.2015 is set aside. The audit slip no.31, dt.08.03.2017 is found to be in order and the appellant is liable to pay the short fall.

15.3 As per my findings in para 12, the appellant's prayer to defer ACCD is not feasible.

15.4 With the above findings the AP. No.29 of 2018 is finally disposed of by the Electricity Ombudsman. No Costs.

**(S. Devarajan)**  
Electricity Ombudsman

To

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2) The Executive Engineer/O&M/Porur,  
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3) The Superintending Engineer,  
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4) The Chairman & Managing Director,  
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NPKRR Maaligai,  
144, Anna Salai, Chennai -600 002.

5) The Secretary,  
Tamil Nadu Electricity Regulatory Commission,  
19-A, Rukmini Lakshmi pathy Salai,  
Egmore, Chennai – 600 008.

6) The Assistant Director (Computer) – **For Hosting in the TNEO Website.**  
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