

BEFORE THE ELECTRICITY OMBUDSMAN

(For the State of Goa and Union Territories)

Under Section 42 (6) of the Electricity Act, 2003

3rd Floor, Plot No. 55-56, UdyogVihar - Phase IV, Sector 18,
Gurugram (Haryana) 122015,

Phone No.:0124-4684708, Email ID: ombudsman.jercuts@gov.in

Appeal No.126 of 2020

Date of Video Conferencing : 27.08.2020

Date of Order: 31.08.2020

Tmt.S Jeeva

w/o Thiru Sakthivel, Puducherry

....Appellant

Versus

The Superintending Engineer cum HOD,

Electricity Department, Puducherry

and others

....Respondents

Parties present:

Appellant

1. ShriV.Sekar

Appellant's Representative

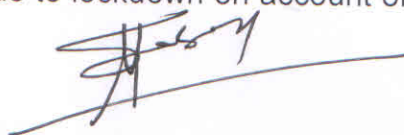
Respondent(s)

1. ShriP.Gnanasegaran ,

Executive Engineer-Rural North O&M

Date of Order: 31.08.2020

The Appellant has preferred an Appeal against the order of the Hon'ble CGRF, Puducherry in C.C. No.06/2020 dated 06.03.2020. The representation was admitted on 30.05.2020 as Appeal No.126 of 2020. Copy of the same as received was forwarded to the Respondents with a direction to submit their remarks/ counter reply on each of the points. However due to lockdown on account of COVID-19 pandemic,



the counter reply was received through email on 24.07.2020 and Appellant was supplied a copy of counter reply. Rejoinder was filed by the Appellant on 04.08.2020 and copy of the same was supplied to the Respondents. At the request of the Appellant that he is held up in lockdown in Chennai , the Video Conferencing was fixed for 27.08.2020 .

(A) **Submissions by the Appellant:**

Appellant submitted the brief facts as under:-

1. FACTS OF THE CASE

The Appellant submits that the a New (Domestic) Electricity Service Connection was provided by the Villianur Junior Engineer (O & M), Puducherry Electricity Department (Respdnt-4) by placing a new (Domestic) Static Watt Hour Meter (Single Phase) in the Complainant's New House (Tmt. S.Jeeva) on 22.02.2013 under Policy No.192134/Reference Code : 32-82-06-0538C.

The Consumer Tmt.S.Jeeva had approached the Junior Engineer (O&M), Villianur Electricity Department, (Puducherry) in person at many times and enquired about the monthly Electricity Consumption Bill for her new domestic service connection under Policy No.192134.

The J.E. had replied that the Bills would come soon.

But it was not done as told by the Junior Engineer. This being so, in the month of July, 2019 a bill dated 04.07.2019 pertaining to the month of June, 2019 having total Unit 22650 as energy consumption along with a total / bulky amount of Rs.62,378/- (including Rs.40/- Fixed S.C) (Rupees Sixty Two Thousand Three Hundred and Seventy Eight Only) for 77 months (from 22.02.2013 to June, 2019)
Photo copy, Exhibits No.1 enclosed.



Then the following monthly Bills with appropriate monthly energy consumption unit and the amount in addition towards the above 77 monthly arrears and other charges are placed:

Period of Bill	Date of Bill	Unit Consumption of the month	Amount for the Monthly Consumption energy	FPPCA Charges / Regulatory Charges	Add Bulk Old arrears	BPSE Charge	Sur Charge	Fixed S.C	Grand Total	Photo copy Exhibits Enclosed
July 2019	06.08.2019	100	150	2494	62378	1243	---	40	66305	Ex 2
August 2019	06.09.2019	150	275	---	65062	2544	7	40	67928	Ex.3
September 2019	08.10.2019	120	200	---	65384	3852	12	40	69488	Ex.4
October 2019	07.11.2019	D.L	---	---	65636	5165	9	40	70850	Ex.5
November 2019	05.12.2019	90	135	---	65893	6483	9	40	72343	Ex.6
December 2019	07.01.2019	90	135	---	66077	7588	7	40	73847	Ex.7
January 2020	06.02.2020	90	135	---	66259	8913	7	40	75219	Ex.8

2. GROUNDS OF APPEAL:

It is submitted that the reply filed by the Respondent-2 on behalf of the Respondents 1 and 4 is a vague one, it does not contained the routine and mandatory duty of the Junior Engineer (O&M), Villianur, Electricity Department, Puducherry who is fully responsible in visiting, inspecting the New (Domestic) Service / Meter Reading etc. of the Complainant Tmt.S.Jeeva on 22.02.2013 under Policy No.192134/Reference Code: 32-82-06-0538C.

Subsequent to the period from 22.02.2013 to 03.07.2019 i.e. upto the date of preparation of First / belated Bill of June 2019 after a lapse of 77 months was issued.

The regular, routine, mandatory official procedure, duty ought to have been observed by the Junior Engineer concerned.

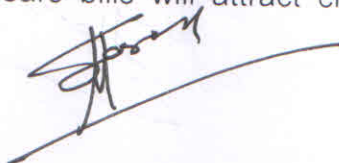
The superior Officers i.e. the Asst. Engineer, Boomiyampet, Respondent-2, Respondent-3 and the Respondent-1 attached to the Puducherry Electricity Department had willfully erred and not supervised their routine and mandatory Government (Public Service) duty in monitoring the preparation and issuance of the monthly Electricity Consumption Bill of the Complainant Tmt. S. Jeeva through their subordinate Officer i.e. Junior Engineer (O&M) concerned pertaining the months February, to December – 2013, January to December, 2014, January to December, 2015, January to December, 2016, January to December, 2017, January to December, 2018, January to December, 2019 and January, 2020.

In obtaining RTI Reply Communication No.3585/ED/EE-RN/Tech./F.RTI/2019-20, dated 18.10.2019 from the Public Information Officer-cum-Executive Engineer (Rural North), Puducherry Electricity Department which addressed to the Complainant Tmt. S. Jeeva and stated through his enclosed Annexure of the Junior Account Officer, Govt. of Puducherry (Electricity) and that document itself as the Prime evidence to show the willful negligence of the Puducherry Electricity Officer, i.e. J.E., Villianur had generated the Bill on 04.07.2019 instead of preparing and issuing the regular periodical monthly bills from 22.02.2013 and also by accepting the utter, grave, abnormal delay in issuing the month wise regular bills in time (**Exhibit-9** Enclosed).

In the above Annexure-Exhibit, it is very clear that the JAO had concealed the facts and suppressed the facts of the regular mandatory duty of the officers, issuance of month wise bills which related to that particular periodical months regularly without any pending arrears.

Hence, it is very well proved that the Puducherry Electricity Officers concerned Respondent 1, 2, 3 and 4 have committed offence since they had all observed abnormal delay in issuing proper bills to the consumer Tmt. S. Jeeva.

This illegal willful negligence of duty and ill-motive by foisting huge, bulk, illegal amount upon the consumer Tmt. S. Jeeva without attending regular, timely periodically preparation and issuance of energy consumption bills from 22.02.2013 to January, 2020 including bulk arrears bills will attract criminal offence as well as



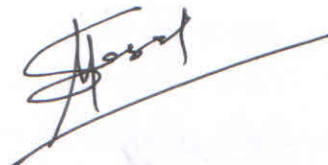
involvement of creation of loss to the livelihood and normal peaceful life of the consumer.

Since the monthly, exact, actual emerging consumption (Unit /rate) bills have not been served to the consumer Tmt. S. Jeeva (Complainant) the Departmental Officers had handicapped the way of the Consumer in paying her rightful actual charges from 22.02.2013 to January, 2020 at the prescribed rates with appropriate periods / rates / units.

Consumer case was filed against the Puducherry Electricity Officials (Respondents 1, 2, 3 a& 4) before the Hon'ble Consumer Grievances Redressal Forum, Puducherry under No.6/2020.

In the above case the Puducherry Electricity Officials (Respondents 1, 2, 3 & 4) have not been filed any reasonable and fair reply in respect of the affected consumer Tmt. S. Jeeva. On the file of written arguments submitted by the Representative (Thiru.V.Sekar) on behalf of the Complainant Tmt. S. Jeeva before the Hon'ble Forum, Puducherry, it has been observed that the Puducherry Electricity Department Officials (Respondents 1, 3 and 4) are jointly responsible and clearly delivered their direction to initiate separate action for the delay and the belated issuance of monthly periodical energy consumption bills in respect of the Consumer Tmt. S. Jeeva. During the course of the enquiry in the Hon'ble Forum at Puducherry the Puducherry Electricity Department Officials have endorsed a statement of calculation showing the monthly reading / unit of energy consumption which figured with the Reading Meter of the Consumer for the period from February to December 2013, January to December, 2014, January to December, 2015, January to December, 2016, January to December, 2017, January to December, 2018, January to December, 2019 and January, 2020 as the consumer had used 288 units per month from February, 2013 to September, 2019 as average.

In respect of monthly bills October, 2019 to January, 2020 as **90 units** have been endorsed which also average instead of the original Unit Reading (**Exhibit-10** Enclosed) of the consumer.



It would be pertinent to note here that the Hon'ble Forum, Puducherry which received Meter Reading calculation Record No.80, dated 28.02.2020 with the Departmental Officer's signature on 04.03.2020, the Hon'ble Forum has not perused its legal and rightful perception.

The above statement was not given to the Complainant / Representative for reference and it was only given after the final order which delivered on 06.03.2020.

After obtaining the order copy it was shocked and all the units of the whole periods bills were calculated average and not actual Readings. This way is illegal because all readings of the Units consumed should be concrete according to the Running Meter of the Consumer.

All Readings are in the hands of the Puducherry Electricity Officials. As such the total, exact, actual, correct reading as per the Department Bills, so far issued are not having from the starting operating Meter Reading Counts. But, they straight away entered and prepared from 22650 from the month of June, 2019 by left out from the installation date of Meter at the Consumer's house i.e. on 22.02.2013.

The Department staff had provided a old / Repaired and serviced Meter S.No.100718 which its date December 2012 (12/12) Genus and also they had not officially informed to the Consumer during that time and till date.

Hence the above Repaired / old Department Meter already under service (previous consumer connection) and its existing Reading are totally wrong and it should be physically and scientifically verified.

Their delayed meter reading started after a lapse of 77 months, reveals as per the Department's evidence Letter dated 18.10.2019 (**Exhibit-11** Enclosed).

3. PRAYER, RELIEF PRAYED:

In the above facts and factors submitted, it is prayed that the Hon'ble Ombudsman, Joint Electricity Regulatory Commission for Union Territory of Puducherry may peruse all points and pass orders by revising and modifying the Decision of Consumer Case No.6/2020, dated 06.03.2020, Puducherry Hon'ble Forum to take action in the Meter which provided by the Department along with its



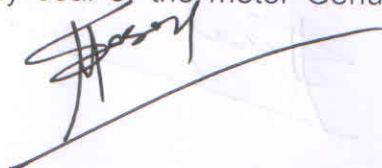
previous operation, Reading, Recording evidence details etc. by authorized expert and to provide the actual, exact energy consumption in respect of the Policy No.192134 of Tmt. S. Jeeva, the Complainant / Appellant, for the periods related to 22.02.2013 to January, 2020 by deleting all wrong Meter Reading calculations which issued by the Department and thus render Justice.

4. APPELLANT ALSO FILED REJOINDER ON DATED 04.08.2020 AND SUBMITTED AS UNDER:-

- (i) I respectfully submit that the reply filed by the respondent- 1 and on behalf of the second to fourth respondents are totally vague and untrue statements.
- (ii) I respectfully submit that the Junior Engineer O & M, Villianur, Electricity Department, Puducherry had arranged to fix a domestic service connection on 22. 02. 2013 with a new meter.
- (iii) I respectfully submit that while recollecting my memory I state that while my approach some Puducherry Electricity officials during the year 2013, they had arranged to avail the new domestic meter facility behind the departmental meter scarcity along with the expenses
- (iv) In this connection no written application with my signature was made before the Puducherry Electricity Authority during the period 2013.

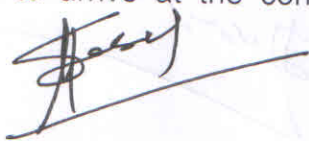
But now on the supply of the photo copies of the test report Exhibit – 2, SI No. 056151 / test report dated 22.02.2013, cash bill for Rs 1700/ bearing No. 420, dated 20.01.2013 (Exhibit-7) and Test Certificate (Exhibit-no 8) from the reply filed by the Executive Engineer (Rural / North O & M) Puducherry, it is understood that my signature shown in the Exhibit – 2 Test report dated 22.02.2013 is not true.

- (v) I respectfully submits that the Exhibit – 8, test certificate copy in respect of meter Serial No. 100718 which supplied by the Respondent – 1 had not bearing the authorized signatory / QC & Testing in charge and the Warranty seal of the meter Genus, SI. No. 100718 and no



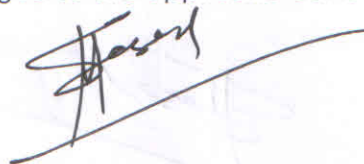
signature was affixed by the applicant / Meter purchaser Tmt. S.Jeeva at Bill No. 420 dated 29.01.2013.

- (vi) I respectfully submits that the Exhibit – 6, Receipt for payment No. 653075, dated 4.02.2013 which supplied by the Respondent – 1 showed the amount of security deposit, service connection deposit Rs. 915/ had been entertained in the Test Report dated 22.02.2013 (Exhibit – 2) as that was collected prior to the date of service / Meter connection on 22.02.2013.
- (vii) I respectfully submits that the Exhibit – 2 Test report / photo copy of the Respondent – 1 dated 22.02.2013, it is seen that signature of the Junior Engineer O & M, Villianur had been affixed on the date 14. 2.2013.
- This has to be clarified by the respondent – 1 that whether the test report had been prepared prior to the date of 22.02.2013, i.e date of new service (Meter connection of the Department.
- (viii) I respectfully submit that the Junior Engineer, O& M Villianur had not obtained my signature at the Test report dated 14. 02. 2013 or 22.02.2013 and furthermore no signature was obtained from me regarding the initial meter reading in any official paper during 22.02.2013.
- (ix) I respectfully submits that during the new meter/ service connection installation on 22.02.2013 the department had not obtained my signature in the WORK SLIP No. 182710, dated 22.02.2013 Appellant's Exhibit – 12 (continuation of my appeal petition) and therefore the overall meter purchase and installation proceedings were done by the Electricity Officials which behind my back.
- (x) I respectfully submit that the initial meter reading was not known to me and in the absence of my signature during the meter installation I have been constrained to arrive at the conclusion that the above Meter



would be defective and should be physically verified by the technical experts.

- (xi) I respectfully submit that the Hon'ble consumer Grievance Redressal forum, Puducherry has ordered to initiate separate Department proceedings for delay caused in realizing the legitimate revenue to the Government by the erring department officials for non issue of current consumption charges bills on time, as prescribed in supply code / standard of performance of JERC.
- (xii) I respectfully submits that as a normal domestic use of energy consumer in respect of the reading as detailed in my appeal petition at page number – 3- point – 5 (1 to 6) towards my meter reading would be reasonable.
- (xiii) I respectfully submit that the Junior Accounts Officer , Electricity Puducherry has clearly replied to the consumer / Appellant in a R.T.I reply letter No. 3585/ E.D/ EE – RN / Tech / F.R.T.I/2019 – 20 dated 18.10.2019 of the Public information officer cum Executive Engineer – Rural (N) , Puducherry Electricity Department that “ Delay in issue of monthly bill was due to receipt of test report. The bill was generated on 04.07.2019 soon after the receipt of the requisition letter from the concerned J.E on 01.07.2019” (Exhibit – 13)
- (xiv) I respectfully submits that the Puducherry Electricity Official in charge ought to have visited the consumer house at the regular intervals to prepare the initial meter reading on 22.03.2013 (monthly visit) but the first bill was prepared on 04.07.2019 as DOOR LOCKED and for rupees 62,378 / having calculated to 77 months Exhibit – 14 after a willful inordinate delay of 77 months.
- (xv) I respectfully submit that the Puducherry Electricity officials had not conveyed the regular monthly meter reading, Electricity energy consumption charges to the applicant/ consumer / Appellant properly.

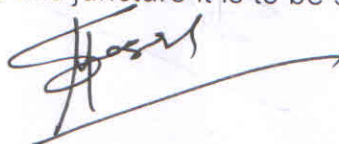


- (xvi) I respectfully submit that in the above situation there was a doubt arises about the meter reading and its function.
- (xvii) In the above facts and factors submitted, it is prayed that the Hon'ble Ombudsman, Joint Electricity Regulatory commission for Union Territory of Puducherry may peruse all points and pass orders by revising and modifying the decision of consumer case No. 6/2020, dated 06.03.2020, Puducherry Hon'ble Forum to take action in the meter which provided by the Department along with its previous operation, reading recording evidence details etc. by authorized technical expert and to provide the actual, exact energy consumption in respect of Policy No.192134 of Tmt. S. Jeeva, the complainant / Appellant, for the periods related to 22.02.2013 to January 2020 by deleting all wrong meter reading calculations which already issued by the department and render justice.

(B) **Submissions by the Respondents :**

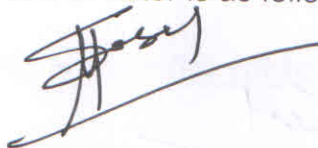
Shri P.Gnanasegaran, Executive Engineer-Rural North O&M, Electricity Department Puducherry, the Respondent on behalf of the second to fourth Respondents, submit that the complainant Thiru. V. Sekar Residing at No.36, Second Floor, Ramalingapuram Street, Mudaliarpeta, Puducherry-605001 who represented for and on behalf of Tmt. S. Jeeva, consumer of the Appeal case has raised objection for bill revision of the service connection bearing Policy Code No.32-82-06-0538C/A2 at No.4, Thiruvalluvar Nagar, Kanuvapeta. The stand of the department for bill revision is as follows:

1. I Respectfully submit that the Junior Engineer/O&M/Villianur while verifying the Policy Register identified that C.C. bill was not yet issued to the domestic service connection bearing Policy Code No.32-82-06-0538C/A2 held in the complainant name at Thiruvalluvar Nagar, Kanuvapeta, Villianur whose service connection was effected on 22.02.2013. As such the Junior Engineer/Villianur O&M immediately sent a report to the Revenue wing of the Department for generation of the CC bill. At this juncture it is to be stated that the statement of



the Complainant that he approached this Department requesting several times for issue of CC bill is not true. The copy of the report of the Junior Engineer to Revenue II for issue of CC bill is enclosed herewith for kind perusal.

2. I respectfully submit that based on the report of the Junior Engineer /O&M/Villianur vide No.583/ED/JE/VLR O&M /F.34 /19-20, dated 20.06.2019, the Junior Account Officer/Revenue-II has revised the C.C. bill for the period from February 2013 to September 2019 as per the tariff order applicable from time to time for an amount of Rs.52,626/- is arrived for payment.
3. I respectfully submit that the complainant approached the Hon'ble CGRF, Puducherry for bill revision. As directed by the Hon'ble Forum, the Respondent submitted the statements and the same was provided to the complainant for verification. After personal interaction between the Complainant and the Respondents the Complainant is convinced for the total amount arrived to the turn of Rs.53,327/- as on January 2020 and accepted to pay the amount in installments .
4. I respectfully submit that the Hon'ble Forum directed the complainant to pay the amount of Rs.53,327/- in six installments . The order copy of the Hon'ble CGRF is enclosed herewith. Based on the order, the Respondent 3 was informed to the complainant to pay the CC charges in six installments vide No.2361/ED/JAO/REV-II/L10/19-20,Dt:17-03-20.
5. I respectfully submit that complainant was paid the service connection charges at the time of obtaining service connections without meter security deposit(copy enclosed) as the complainant was purchased the energy meter from the outside market and in this connection the copy of the purchase invoice and manufacturer test certificate are enclosed. Subsequently the new meter was sent to the Department Lab for testing and the Lab section after testing has also issued a certificate whose copy is enclosed herewith. In this connection the details of the meter is as follows:



Make: Genus, SI.No.100718, Dept.No.001409/02-13, Capacity:5-30 (Single phase). Initial Reading:0001.

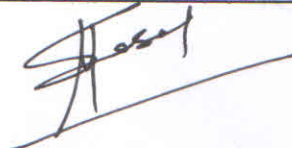
The Junior Engineer /Millianur O&M has also confirmed that the above energy meter is available at present in the consumer premises. The same meter has not been removed from service for testing till date and it is working in good condition.

6. I respectfully submit that as directed by the Hon'ble Ombudsman the complainant was called for mutual agreement at the chamber of the Executive Engineer/Rural North (O&M) on 15/07/2020. The copy of the letter sent to the complainant is enclosed herewith.
7. I respectfully submit that, in this connection it is to be stated that since the complainant was held up at Chennai the complainant authorized his representative Thiru. V. Sekar, No.36, Second floor, Ramalingapuram St, Mudaliarpet, Puducherry-04 to appear on her behalf. During the meeting the Respondent clarified the points raised by the Complainant's representative. At the end of the meeting the Complainant's representative informed that he would submit the consent for mutual agreement after discussing with the Complainant. However till date neither the Complainant nor his representative turned up to furnish the consent letter.
8. I respectfully submit that, during the CGRF case No.6/2020 on 02-03-2020 Thiru. V. Sekar representative of Tmt. S. Jeeva was accepted the payment of CC' bill for an amount of Rs.53,327/- on January 2020 with six installments in writing before issuing the CGRF order. The record is available in the office of CGRF, Puducherry.

In view of the reason said above the Hon'ble Forum may be pleased to dismiss the above complaint with costs and thus render justice.

(C) CGRF order dated 09.01.2020, preferred for Appeal:


Hon'ble CGRF has passed the following order:--



OBSERVATION: It is observed from the reply statement filed by Respondent No.2 on behalf of Respondent No.1 and No.4 on 12/02/2020, wherein he has clearly admitted by stating that while verifying the Policy Register, it was observed that the current consumption bills were not being generated for the service connection effected to the Complainant on 22/02/2013, which clearly shows the negligent act on the part of the Respondents. Further, Respondent No.4 in his letter dated 20/06/2019 has also mentioned that the first monthly bill has not been served to the Complainant till date. The Respondent No.3 also admitted the negligent act on the part of the officials of the Department by stating that due to communication gap, the test report has been received belatedly, which showed that the Respondents have not taken any steps to issue current consumption charges bills every month to the Complainant for nearly 77 months which is to be viewed seriously and thereby causing delay in recovery of legitimate Revenue to Government. Therefore, we are of the opinion that the delay in collection of revenue by the Department shall be enquired and the responsibilities shall be fixed by initiating a separate proceeding by the Department. The Department shall also evolve a comprehensive policy on recovery of arrears from the consumers, where bills are issued belatedly by the Department.

ORDER

- i. As endorsed by the Complainant the Electricity Department shall allow the Complainant to pay the agreed amount of Rs.53,327/- in six installments.
- ii. Hence the Complaint is allowed.
- iii. The Department shall initiate separate Department proceedings for delay caused in realizing the legitimate revenue to the Government by the erring department officials for non-issue of current consumption charges bills on time, as prescribed in supply code / standard of performance of JERC.
- iv. The Complainant is at liberty to prefer an appeal against this Order before the Ombudsman, Joint Electricity Regulatory Commission for the state of Goa and Union Territories, 3rd& 4thFloor, Plot No. 55-56, Pathkind Lab Building,



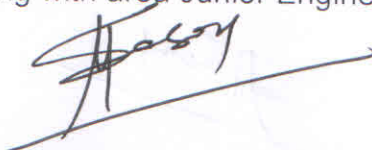
Sector-18, Udyog Vihar-Phase IV, Gurugram, (122015) Haryana within 30 days from the date of this Order under intimation to this Forum and the Respondents.

- v. A Compliance report shall be submitted to this Forum on the action taken in this regard within 30 days.
- vi. Non-compliance with the directions of Forum by the Licensee shall attract remedial action under Sections 142 and 146, read with Section 149 of the Electricity Act 2003.

(A) **Deliberations during Video hearing on 27.08.2020:**

1. **Appellant submission:**

- a. The Appellant reiterated his version as submitted in appeal.
- b. Shri V. Sekar submitted that Respondents issued the First Bill after a gap of 77 months by taking an average of 294 units months per month, which is on higher side. He further submitted that average of 100 units per month is appropriate and therefore meter appears to be faulty and accordingly he should not be charged average of 294 units per month. The average revised from February, 2013 to September, 2019 @ 288 units per month is still excessive.
- c. On being asked to clarify whether he was using electricity since 22.02.2013, he replied in affirmative.
- d. On being asked to clarify whether he had purchased the Electricity Meter, he replied in affirmative. Further on being asked that when he was using electricity, then why he never written to the Electricity Department Puducherry between 2013 to 2019 to issue a Bill. He has no answer except that he was verbally perusing with area Junior Engineer.



2. **Respondents Submission:**

- a. The respondents reiterated their version as submitted in counter reply to the appeal and requested to dismiss the appeal.
- b. Shri P.Gnanasegaran, Executive Engineer, further submitted that on scrutiny of records, it was found that no bill was being issued to the Appellant despite release of connection on 22.02.2013 and accordingly as per reading of 22650 as on 30.06.2019, a bill was rendered as per actual consumption consumed and recorded by the meter for 77 months, which comes to an average of 294 units per month. The bill was accordingly prepared as per tariff applicable in the relevant year and latter on revised @ 288 units per month upto 30.09.2019 as per CGRF orders.

(B) **Findings & Analysis:-**

1. I have perused the documents on record and pleadings of the parties.
2. Following provisions have been provided in the Supply Code Regulations, 2018, notified by the Hon'ble Commission:-

(i) . **Section 6.16:-**

“6.16 The consumer shall be responsible for safe custody of meter(s), MCB/CB, etc., if the same are installed within the consumer's premises. The consumer shall promptly notify the Licensee about any fault, accident or problem noticed with the meter.”

(ii) **Section 6.32:-**



“6.32 The Licensee shall conduct periodical inspection/testing of the meters as per the following schedule:

- (1) Single phase meters: Once every 5 years
- (2) LT 3-phase meters: Once every 3 years
- (3) HT/EHT meters including MDI: Yearly

Wherever applicable, CT and PT shall also be tested along with meters.”

(iii) Section 6.35:-

“6.35 A consumer may request the Licensee to test the meter on his premises if the consumer doubts its accuracy, by applying to the Licensee in the format given in Annexure X to this Supply Code, 2018, along with the requisite testing fee. On receipt of such request, the Licensee shall follow the procedure as detailed in Regulations Error! Reference source not found. to Error! Reference source not found. of this Supply Code, 2018.”

(iv) Section 7.4:-

“7.4 The Licensee shall issue the first bill within two billing cycles of energizing a new connection. In case the consumer does not receive the first bill within two billing cycles from the date of energization of the connection, the consumer shall complain, in writing, to the Licensee's office and the Licensee shall issue the bill within the next 14 days.”

(v) Section 7.26:-

“7.26 If the complaint is found to be correct by the Licensee, a revised bill shall be issued within 5 working days of



intimation of the same to the consumer. The consumer shall make the payment within 15 days after receipt of the revised bill. The consumer shall not be charged any late payment surcharge, if the payment is made by the revised due date.”

(vi) Section 7.40:-

“Recovery of Arrears

7.40 No sum due from any consumer, on account of default in payment shall be recoverable after the period of two years from the date when such sum became first due unless such sum has been shown continuously as recoverable as arrear of charges for electricity supplied.

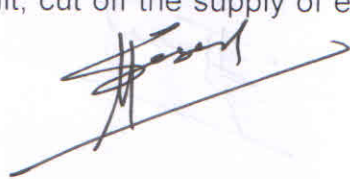
Further, dues of any consumer (if any) pending for a period more than 6 months can be transferred to another installation of the same consumer after thorough verification by the Licensee, i.e., proof that the both consumers are same.”

3. Following provisions have been provided in the Electricity Act, 2003:-

SECTION 56

“ Disconnection of Supply in default of payment:

- (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:

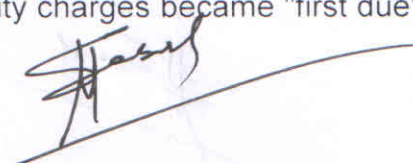
Provided that the supply of electricity shall not be cut off if such person deposits, under protest,

- 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.

- (2) Notwithstanding anything contained in any other law for the time being in force, no sum due from any consumer, under this section shall be recoverable after the period of two years from the date when such sum became first due, unless such sum has been shown continuously as recoverable as arrear of charges for electricity supplied and the licensee shall not cut off the supply of the electricity.”

4. Hon'ble Supreme Court in a recent judgement dated- 18.02.2020, in Civil Appeal No.1672 of 2020 titled Assistant Engineer (D1),Ajmer Vidyut Vitran Nigam Limited & Anr. Vs Rahamatullah Khan, has held that the liability to pay arises on the consumption of electricity. The obligation to pay would arise when the bill is issued by the licensee company, quantifying the charges to be paid. Electricity charges would become "first due" only after the bill is issued to the consumer. The period of limitation of two years would commence from the date on which the electricity charges became "first due" under sub-section



(2) of Section 56. This provision restricts the right of the licensee company to disconnect electricity supply due to non-payment of dues by the consumer, unless such sum has been shown continuously to be recoverable as arrears of electricity supplied, in the bills raised for the past period.

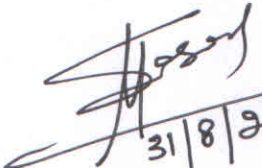
5. The First Bill was issued by the Respondents on 04.07.2019 for Rs.62378/- for 77 months, whereas in view of provisions of Section 56(2) of Electricity Act-2003 and Section 7.40 of Supply Code Regulations-2018 and the dictum of Hon'ble Supreme Court as above, the Respondents are not entitled to charge any 'Dues' beyond a period of 2 years. Therefore Respondents are barred by their own negligence and inactions to charge any 'Dues' from the Appellant beyond two years i.e. from 22.02.2013 to 03.07.2017
6. From the above findings, it is crystal clear that Appellant has also not come to this court with clean hands. On one hand he never represented for non issuing of Electricity Bill for 77 months, despite his consuming the electricity, on the other hand he has never complained regarding accuracy of Meter, as required as per provisions of Supply Code Regulations-2018. His averment that Meter is faulty lacks merit and only an afterthought to avoid making the payment of dues to Respondents.
7. The average estimated monthly consumption for a sanctioned load of 3.615 KW as calculated on the basis of $L \times D \times H \times F$ formula comes to 347 units per month ($3.615 \times 30 \times 8 \times 0.40 = 347.04$). The average consumption of 294 units ($22649/77 = 294$) per month worked out on the basis of actual Meter reading recorded [22650-00001=22649] by the existing Meter from February 22, 2013 to June 30, 2019 for 77 months is actual and reasonable.

(C) **DECISION**

- (i) For the reasons discussed above, the appeal of the Appellant is allowed and the order passed by Hon'ble CGRF Puducherry, dated -06/03/2020 in CC No-06/2019 is set aside.



- (ii) The First Bill dated-04.07.2020 for Rs.62,378/- upto the reading of 22650 units as on 30.06.2019 is hereby set aside.
- (iii) The Electricity Department/Licensee is directed to revise the bill for **two years** i.e. from 01.07.2017 to 30.06.2019 @ of 294 unit per month as per applicable tariff , instead of 77 months .
- (iv) The Electricity Department/Licensee is directed to issue revised bill within 5 days from the date of this order, giving the Appellant 15 days time to make the payment in **TWO MONTHLY** installments failing which Belated Payment Surcharge can be levied/ disconnection can be effected, as per Regulations/Tariff Order notified by Hon'ble Regulatory Commission.
- (v) In case, the Appellant or the Respondents are not satisfied with the above decision, they are at liberty to seek appropriate remedy against this order from the appropriate bodies in accordance with Regulation 37(7) of the Joint Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2019.
- (vi) The Electricity Department/Licensee should submit a compliance report to office of Ombudsman on the action taken in this regard within 15 days of the issuance of the Order.
- (vii) Non-compliance of the orders of the Ombudsman by the Electricity Department/Licensee shall be deemed to be a violation of Regulations and shall be liable for appropriate action by the Commission under the provisions of the Electricity Act, 2003.
- (viii) The appeal is disposed of accordingly.


31/8/2020

(M.P. Singh Wasal)

Electricity Ombudsman

For Goa & UTs (except Delhi)

Dated 31.08.2020