

BEFORE THE CONSUMER GRIEVANCES REDRESSAL FORUM
(Under the Electricity Act, 2003)
PUDUCHERRY

PRESENT:

THIRU T. GOPALAKRISHNAN, B.E.,
CHAIRMAN

THIRU A.S. JITENDRA RAO, B. Tech., M.B.A.,
LICENSEE MEMBER

THIRU R. KRISHNAMURTHY, B.Com., LLB., PGDFL.,
JERC NOMINATED MEMBER

THURSDAY, THE 30TH DAY OF JUNE 2022

CONSUMER CASE No.103/2022

N. Ramadass,
No.151, Needarajappaiyar Street,
Puducherry 605001.

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Complainant

Vs.

- 1) The Executive Engineer, Urban(O&M),
Electricity Department,
Puducherry
- 2) The Assistant Executive Engineer – Town-I
Electricity Department,
Puducherry.
- 3) The Junior Accounts Officer-Rev.I,
Electricity Department,
Puducherry.
- 4) The Junior Engineer- Central,
Electricity Department,
Puducherry.

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Respondents

This case in C.C. No.103/2022 came up before this Forum for final hearing on 24/06/2022. After hearing both sides and having stood over till this date for consideration this Forum has delivered the following:

The case of the Complainant is as follows:

1. A Complaint was received from N. Ramadass on 08/06/2022. In the complaint, the Complainant had stated that he is having a service connection with policy code No.03-10-06-0676 /A1. The tenant vacated in September 2021 and lying vacant upto 28/02/2022. He has paid all the bills raised by the Department till April 2022. Now, all of a sudden a lump sum amount of Rs.8551/- is shown as excess claim. Eventhough, the E&O E mentioned at the bottom of the bill states "Tariff revised from 01/04/2022 based on JERC Orders". It is also brought to the knowledge that no lump sum demand is raised for other commercial tariff in that area. There is no notice, on what basis and Act the lump sum demand was raised. It is brought to the notice, that the Hon'ble Supreme Court held in levying fee / tax, no retrospective levy affecting the public is permissible. It is bad and illegal because it cripples the business which cannot recover such levy from consumer / tenant who has left the scene. Further, it held that a show cause notice has to be issued before demanding any tax or fee. The Complainant prayed this Forum for redressal of grievances and remove the retrospective levy. Hence, the Complaint.

2. The complaint was registered as C.C. No.103/2022 on 09/06/2022 and notice sent to the Executive Engineer, Urban O&M and others to furnish reply by 20/06/2022. Reply from the Respondents No.1,2 & 4 were received on 23/06/2022 and from Respondent No.3 was received on 15/06/2022 and a copy of the same were the communicated to the Complainant. The case was posted for hearing on 24/06/2022.

3. In the Affidavit dated 23/06/2022, the Assistant Executive Engineer- Town-I / Respondent No.2 on behalf of Respondent 1 and 4 had stated that, the policy bearing code No.03-10-06-0676/A1 has a connected load of 9500 W, previously the fixed charge was Rs.130/- in 2020-21 month irrespective of connected load and now as per tariff order for the year 2021-22, issued by the Joint Electricity Regulatory Commission for the states of Goa and Union Territories, the fixed charges for LT commercial is fixed at Rs.75 / KW / month with (2020-21) effect from 01/04/2021.

As per calculation, the fixed charges for policy code No. 03-10-06-0676/A1 is $9500 / 1000) 9.5 \times \text{Rs.}75/- = \text{Rs.}712.50 / \text{month} \times 12$ and hence Rs.8,550/- is claimed. Moreover, the Department is in the process of collecting connected load data for policies not having connected load and the revised fixed charges are levied accordingly for the left over policies.

4. In the Affidavit dated 15/06/2022, the Junior Accounts Officer-Rev.I / Respondent No.3 had stated that the policy code No. 03-10-06-0676/A1 exists in the name of N. Ramadass has a connected load of 9500KW, previously the fixed charges was Rs.40/month irrespective of connected load and now as per Tariff Order for the year 2021-22, issued by the Hon'ble JERC, the fixed charges for LT commercial is fixed as Rs.75/KW / Month with effect from 01/04/2021. As per calculation of fixed charges for the policy is $(9500 / 1000) 9.5 \times 75 = \text{RS.}712.50 / \text{month} \times 12$ and hence Rs.8550/- is claimed. Moreover, the Department is in the process of collecting connected load data, for policies not having connected load through field report from the divisions and the revised fixed charges are levied accordingly for the left over policies.

4. Hearing was held on 24/06/2022. Both the Complainant and Respondents were present. During the hearing, the Complainant stated that he has paid the disputed bill under protest and prays this Forum that it is illegal to claim Fixed charges retrospectively. Hence, requested for refund of the same. The Respondents were directed to file additional Affidavit with paper publication regarding revision of Fixed charges and Tariff in the dailies published to create public awareness. The case was posted for Orders on 30/06/2022.

5. In the reply dated 28/06/2022 filed by the Respondent No.2 / Assistant Executive Engineer, Town-I for himself and on behalf of Respondent No.1, 3 and 4 had stated that as per JERC Tariff Order 2021-22, Rs.75/KW/Month has to be levied from commercial tariff service holders from April 2021 onwards. Whereas sanctioned load details are not available in the Revenue Section for certain cases and the same

has been updated after field inspection during April 2022. The said Tariff Order has been inserted in newspaper as press clipping in Tamil daily newspaper 'Dinamalar' dated 10/05/2022 (for awareness of the general public) which is enclosed herewith. Further, the Department has already issued every month current consumption bills with foot note intimation above the JERC Tariff Order revision from the month of April 2021.

Observation: On perusal of the documents and on hearing both parties, it is true that the Respondents have revised the Tariff and Fixed charges from 01/04/2021 based on JERC Orders and the same were published in the Dailies (both English and Tamil) to create awareness among the general public. It is also true that the Respondents have raised bill claiming Fixed surcharges accumulated from April 2021 upto March 2022 to a tune of Rs.8,551/- and issued to the consumer belatedly. The Complainant has also paid the same under protest. But the claim raised by the Respondents are legitimate and not a Penalty / Tax, which has to be paid by all the consumers. The Respondents should have the latest mechanism to implement the Orders immediately without burdening the consumers. When the Respondents are not in a position to implement Orders immediately, the Respondents should have informed JERC about their non-availability of connected load data of all commercial consumers to implement the Tariff Orders immediately and get prior approval from JERC to revise bills belatedly and to give instalments to the consumers if requested. It is also observed that since the claim made belatedly by the Respondents, it will not amount to illegal but it is genuine claim to be paid by every consumer. The case law mentioned by the Complainant as detailed below:

- I. In the Hon'ble Jharkhand High Court
M/s Bihar Sponge Iron Ltd., Vs The State of Jharkhand
- II. In the Hon'ble Supreme Court
M/s Vodafone Vs Government of India

The above cases are irrelevant to the present case and thereby it could not be considered accordingly.

*III. In the Kerala High Court
Rupesh Ravindran Vs State of Kerala*

In the above case it is mentioned that a review petition filed by the Petitioner stating that the implementation of the revised tariff with retrospective effect from 01/10/2014 is illegal. But in Para 7 of the Judgement holding that since recovery initiated by the Respondents are not barred in the law of limitation, the Respondents are entitled to recover the amount which was introduced by the amendment of tariff with effect from 01/10/2014 and the review petition was dismissed by the Hon'ble Kerala High Court. Therefore, the above judgement is also not supporting the claim of the Complainant.

*IV. In the Gujarat High Court
Pradip Petroleum Company Vs Department of Telecommunication*

It is stated in Para 10 of the Judgement "Such fixation will not be effective until it is duly made known to the public by some recognised media". In the present case the revision of tariff were notified by the Respondents in the daily newspapers and hence this judgement also not supporting to the claim of the Complainant.

Since it is a legal / legitimate claim raised by the Respondents, the Complainant is not entitled to get relief as prayed for in the complaint.

ORDER

- i. In view of the above observation, the Complaint is not allowed.
- ii. The Complainant, if aggrieved, by non-redressal of his / her grievance by the Forum or non-implementation of CGRF Order by the Licensee, may make an Appeal in prescribed Annexure-IV to the Electricity Ombudsman, Joint Electricity Regulatory Commission for the state of Goa and Union Territories, 3rd Floor, Plot No. 55-56, Pathkind Lab Building, Service Road, Udyog Vihar, Phase IV, Sector -18 Gurugram, Haryana-122015; email ombudsman.jercuts@gov.in within 30 days from the date of this Order under intimation to this Forum and the Respondents.

Dated at Puducherry on this the 30th day of June, 2022

Sd/-

**(R. KRISHNAMURTHY)
JERC NOMINATED MEMBER**

Sd/-

**(A.S. JITENDRA RAO)
LICENSEE MEMBER**

Sd/-

**(T. GOPALAKRISHNAN)
CHAIRMAN**

