



A consumer is the important visitor on our premises.
He is not dependent on us. We are dependent on him.
-Mahatma Gandhi

TAMIL NADU ELECTRICITY OMBUDSMAN

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Before The Tamil Nadu Electricity Ombudsman, Chennai

Present : Thiru. S. Devarajan, Electricity Ombudsman

A.P.No. 61 of 2021

Tmt. V. Selvi,
w/o. Hariharan,
13C, Anna Nagar 3rd Cross,
Pidamaneri Kumarasamypettai Post,
Dharmapuri Taluk,
Dharmapuri District

. Appellant
(Rep. by Thiru L.R. Balasubramanian, Advocate)

Vs.

The Assistant Engineer/O&M/Dharmapuri/West,
Dharmapuri Electricity Distribution Circle, TANGEDCO,
Narasimmachari Street,
Dharmapuri Taluk,
Dharmapuri District — 636701.

. Respondent
(Tmt. K.A. Malarvizhi, AE/O&M/Dharmapuri/West)

Petition Received on: 28-07-2021

Date of hearing: 07-10-2021

Date of order: 12-01-2022

The Appeal Petition received on 28.07.2021 filed by Tmt. V. Selvi, w/o. Hariharan, 13C, Anna Nagar 3rd Cross, Pidamaneri Kumarasamypettai Post, Dharmapuri Taluk, Dharmapuri District was registered as Appeal Petition No. 61 of 2021. The above appeal petition came up for hearing before the Electricity Ombudsman on 07.10.2021. Upon perusing the Appeal Petition, Counter affidavit, written argument and the oral submission made on the hearing date from both the parties, the Electricity Ombudsman passes the following order.

ORDER

1. Prayer of the Appellant:

The Appellant has prayed to refund the deposit amount and award compensation of Rs.3,00,000/- towards mental agony.

2.0 Brief History of the case:

2.1 The Appellant has stated that she had applied for a domestic service connection for her house to the AE/O&M/West/Dharmapuri.

2.2 Upon receiving the application from the appellant, the respondent has instructed the appellant to make a deposit of Rs.8,185/- towards erection charges of new electric pole in between her house and the existing electric pole and the same was paid by the appellant.

2.3 When the appellant has questioned the respondent about effecting of service connection without erecting of new pole, the respondent had replied that the deposited amount will be refunded to the appellant but the appellant has not received refund even after many times he approached the respondent.

2.4 So, the appellant has filed a petition with the CGRF of Dharmapuri EDC on 11.05.2021. The CGRF of Dharmapuri EDC has issued an order dated 29.06.2021. Aggrieved over the order, the appellant has preferred this appeal petition before the Electricity Ombudsman.

3.0 Orders of the CGRF :

3.1 The CGRF of Dharmapuri Electricity Distribution Circle have issued its order on 29.06.2021. The relevant portion of the order is extracted below :-

“மனுதாரர் 15.10.2011 அன்று தனது வீட்டிற்கு அருகாமையில் செல்லும் குறைந்தழுத்த மின்பாதையை சற்று தள்ளி அமைக்க ரசீது எண்.5/4531 வாயிலாக ரூ8,185/- செலுத்தியதாகவும் அதற்கான

பணி செய்யப்படவில்லை என்றும் தான் செலுத்திய தொகையை வட்டி மற்றும் அபராத தொகையாக ரூ.3,00,000/- வழங்குமாறு மனு அளித்துள்ளார்.

புகார் மனு தொடர்பாக கள ஆய்வு செய்ததில் புகாருக்கு உண்டான பணி 10 ஆண்டுகளுக்கு முன்பு மேற்கொள்ளப்பட்டது என தெரிய வருகிறது. செயற்பொறியாளர்/இ.ப./தருமபுரி அவர்கள் கள ஆய்வு அறிக்கை மற்றும் நேர்முக அறிக்கையின் அடிப்படையில் மனுதாரரின் இருப்பிடத்திற்கு மிக அருகாமையில் தாழ்வழுத்த மின்பாதை அமைக்கப்படவில்லை என்றும் அவரது வீட்டிற்கும் மின்பாதைக்கும் இடையில் 7 அடி இடைவெளி உள்ளது எனவும் அறிய வருகிறது.

உதவி பொறியாளர்/இ.ப./மேற்கு/தருமபுரி பிரிவு அலுவலகம் 31.10.2018 அன்று சோகத்தூர் துணை மின்நிலையத்திற்கு இடமாற்றம் செய்யப்பட்டது. அலுவலகத்தில் இருந்த பழைய ஆவணங்கள் பண்டக சாலையில் ஒப்படைக்கப்பட்டுவிட்டது. இதன் காரணமாக புகார் மனுவில் குறிப்பிட்டுள்ள களபணிக்கு உண்டான மதிப்பீடு கிடைக்கவில்லை.

மனுதாரர் பிரிவு அலுவலகத்தில் புகார் மனு பல முறை வழங்கியதாக மன்றத்தில் தெரிவித்தார் இது தொடர்பான ஆவணங்கள் ஏதும் மன்றத்தில் சமர்ப்பிக்கப்படவில்லை. மேலும் மனுதாரர் குறிப்பிட்ட மனு ஏதும் பிரிவு அலுவலகத்திலும் பெறப்படவில்லை.

TNERC விதிமுறை 17(4) (B)-ன் படி எந்த ஒரு பணிக்கான புகார்களை 3 மாத காலத்திற்குள் தெரியப்படுத்த வேண்டும். (The complaint is made within 3 months after cause of action has arisen).

மனுதாரரின் புகார் மனுவானது மன்றத்தில் தள்ளுபடி செய்யப்படுகிறது. இந்த தீர்ப்பு தொடர்பாக ஆட்சேபனை இருப்பின் ஆணையத்திற்கு மேல்முறையீடு செய்யலாம் என தெரிவித்துக் கொள்ளப்படுகிறது”.

4.0 Hearing held by the Electricity Ombudsman:

4.1 To enable the Appellant and the Respondents to put forth their arguments, a hearing was conducted on 07.10.2021 through video conferencing.

4.2 On behalf of the Appellant Thiru L.R. Balasubramanian, Advocate has

attended the hearing and put forth his arguments.

4.3 Tmt. K.A. Malarvizhi, AE/O&M/Dharmapuri/West of Dharmapuri EDC has attended the hearing and put forth her arguments.

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

5.0 Arguments of the Appellant :

5.1 The appellant has stated that she is the absolute owner of the property bearing door number referred to above. She has constructed a dwelling house therein and for her requirement of electric service connection, she has duly applied to the respondent Assistant Engineer/O&M/ Dharmapuri EDC/West, Dharmapuri Town, requesting to effect domestic electric service connection.

5.2 The appellant has stated that since the appellant's newly built up house was some considerable distance away from the existing electric pole, the respondent informed to the appellant only by fixing a new pole in the middle they can effect electric service connection to the appellant's house and further instructed to make deposit of Rs.8,185/- (Rupees Eight Thousand One Hundred and Eighty Five only) to the EB department towards installation/erection charge of one electric pole in between appellant's house and the existing electric pole at a distance. In due compliance of the directives of the respondent, appellant has deposited the said sum of Rs.8,185/- for which the respondent has also issued a Receipt No.0514531 dated 15-10-2011.

5.3 The appellant has stated that after receipt of Rs.8,185/- towards erection charge of new electric pole, the respondent, without erecting any new electric pole, drawing electric lines from another already existing electric pole, effected electric service connection to the appellant's house. The respondent has also received a

further charge of Rs.2,500/- (Rupees Two Thousand and Five Hundred only) towards cost of the electric line drawn.

5.4 The appellant has stated that when the appellant questioned about effecting of electric service connection without erecting a new pole which they earlier expressed for which said sum of Rs.8,185/- was deposited by the appellant, the respondent replied that the amount so received will be refunded to the appellant. In this respect the appellant many a times approached the respondent putting a demand to refund the amount of Rs.8,185/- soon without any delay. But the respondent used to postpone and drag on the refund of deposited amount of Rs.8,185/- vide his office receipt No.0514531, dated: 15-10-2011. At last when the appellant approached the respondent demanding refund of the said Rs.8,185/-, he unwarrantedly ill-treated the appellant in the presence of some publics hesitatively and negligently using abusive words. Finally, he openly declined to make refund of the amount of Rs.8,185/- deposited by the appellant vide receipt No.0514531, dated: 15.10.2011 issued by the respondent. Such an ill-treatment and discrimination rendered by the respondent brought unbearable mental agony to the appellant.

5.5 The appellant has stated that being a Quasi Government Servant, the respondent, apparently failed to discharge his bounden duty to appellant. Having received an unnecessary deposit, respondent, went against his own promise and assurance. Above all, he is not entitled to ill-treat, discriminate, hesitate or neglect the appellant when she puts her lawful demand. Such a service rendered by the respondent is quiet unsatisfactory to the appellant. The ill-treatment bestowed by respondent to appellant is obviously offensive.

5.6 Therefore the appellant demanding refund of the deposited sum of Rs.8,185/- (Rupees Eight Thousand One hundred and Eighty Five only) and a compensation of Rs.3,00,000/- (Rupees Three Lakhs only) towards mental agony and discrimination, appellant has issued a lawyer's notice on 10.5.2018 to the respondent . He has received the said notice, but did not come forward to comply with appellant's demand nor issued any reply.

5.7 The appellant praying intervention of the Electricity Ombudsman, has sent her referral through her counsel earlier on 23.04.2021. But the Electricity Ombudsman rendered an advice to the appellant first to lodge a complaint of grievance before the Chairman, CGRF of Dharmapuri EDC and then to approach the Electricity Ombudsman. The appellant has lodged her complaint of grievance before the Chairman, CGRF of Dharmapuri EDC on 11.5.2021 with necessary enclosures. But the Forum has rejected by its order, dated 16.6.2021 passed in EE/O& M/ DPI/TA/F.RTI/D.196-A/2021.

Grounds of appeal:

- a) The order of forum is highly erroneous and unilateral.
- b) The Forum failed even to make a feeble attempt to enquire the respondent who received money on false promise and assurance giving a legally valid receipt described above.
- c) The reason set forth in the order that old records relating to the appellant's grievance petition is not available is apparently a negligent answer in order to save the respondent.
- d) The respondent has no authority to scold the appellant with abusive words, discriminate and ill-treat her when she made a demand of refund of money which was received by the respondent on false promise and assurance from the appellant. Such an act of respondent is an offence warranting penal action which the forum failed to properly observe.
- e) For the service not rendered, the respondent is not entitled to levy/collect any money from the appellant. But making a conclusive and deceptive suggestion and false promise of erecting a new pole in view of effecting new electric service connection to the appellant, the respondent has received money from her that too issuing a valid and legally enforceable departmental receipt. Specifically, for what service the amount was received, it should be unavoidably executed by the respondent. No such informed service was executed. In the event the particular service was not

executed, amount collected therefore should be honestly refunded to the appellant. In spite of several demands made by appellant, the respondent

did not refund the amount received. On the other hand, he bitterly discriminated the appellant using abusive words in the presence of several other consumers inviting unbearable mental agony to her. Respondent's such an act is nothing but deception, negligence, discriminatory and unsatisfactory. The forum failed to properly observe it.

5.8 The Appellant has prayed to enquire into the matter and to do the needful directing the respondent to settle the claim made by her at the earliest.

6.0 Counter submitted by the Respondent:

6.1 The respondent has submitted that grievance of the petitioner pertains to the year 2011. As per the office records of the respondent herein the work pertaining to the appellants remittance amount of Rs.8,185/- was completed even as on 22.12.2011.

6.2 The respondent has submitted that most of the electrical infrastructure in that area was modified during the past ten years. The work for which the amount was collected was executed.

6.3 The respondent has submitted that as per clause 17-4(b) of the Consumer Grievance Redressal Forum & Ombudsman Regulation 2004, the Consumer complaint should be preferred within three months from the date of cause of action. The alleged cause of action pertains to the year 2011 i.e. 22.12.2011 and the present complaint made in the year 2021 is highly belated and is clearly and squarely barred by limitation. Hence it is not maintainable. The appellant had now come forward with this petition and appeal after such a prolonged period to make unjust enrichment.

6.4 The respondent has submitted that the office of the Assistant Engineer/ O&M/Dharmapuri/West was shifted to sogathur 110 KV SS premises on 31.10.2018 it is routine procedure to send all the records which are five years old to the central store. Now the records relating the said period is not available. There is no cause of action for this appeal and the causes of action alleged are untenable.

6.5 The respondent has prayed that the above appeal, which is devoid of any merit and barred by limitation may be dismissed.

7.0 Findings of the Electricity Ombudsman:

7.1 I have heard the arguments of both the appellant and the Respondent. Based on the arguments and the documents submitted by them the following conclusion is arrived.

7.2 The appellant has stated that she paid an amount of Rs.8,185/- on 15.10.2011 towards erection of an electric pole in between her newly constructed house and the existing electric pole, but later without erecting the pole the respondent has effected service connection, hence demanded refund of the above amount. The appellant has stated that she issued a lawyer's notice on 10.05.2018 to the respondent for the refund of the amount. As she didn't get response, approached the Electricity Ombudsman on 23.04.2021. Later, represented to the Consumer Grievance Redressal Forum of Dharmapuri EDC on 11.05.2021 but got rejected.

7.3 The Respondent has stated that the work pertaining to the appellant's remittance amount of Rs.8,185/- was completed on 22.12.2011. Further stated that the cause of action pertains to the year 2011 and the complaint is made in 2021 is belated and barred by limitation. Also the records relating to the said period is not available.

7.4 It is seen that the appellant has first represented to the respondent on

10.05.2018 after seven years, however copy of which is not made available, except the receipt for having paid the amount Rs.8,185/- on 15.10.2011 wherein it has been mentioned only as DCW but no other details and documents are made available either by the appellant or by the respondent for confirming the purpose for which the said amount was paid. From the consumer ledger of the service connection number 5776 it is observed that the service connection has been effected on 26.06.2011. Hence, I am of the opinion that the claim of refund is made belatantly. The respondent has quoted regulation 17(4)(b) of the Regulations for CGRF and Electricity Ombudsman, 2004 which is given below;

“17(4)(b)

(1) xxxxx

(2) xxxxx

(3) xxxxx

(4) *No complaint to the Electricity Ombudsman shall lie unless:*

(a) xxxxx

(b) *The complaint is made within three months after cause of action has arisen.”*

In view of the above, I am of the opinion that the argument of the respondent that the cause of action pertains to the year 2011 and the claim is barred by limitation is acceptable to me and hence the belatent claim of refund of the amount Rs.8,185/- by the appellant is not acceptable and hence to be rejected and the question of compensation amount Rs.3,00,000/- does not arise. Hence the appeal petition is dismissed.

8.0 Conclusion:

8.1 As per the paragraphs in 7.0 above, I am not in a position to order refund of belated claim of the amount of Rs.8,185/- by the appellant and hence the petition dismissed.

8.2 With the above findings the appeal petition No. 61 of 2021 is disposed of by the Electricity Ombudsman. No costs.

(S.Devarajan)
Electricity Ombudsman

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

To

1. Tmt. V. Selvi,
w/o. Hariharan,
13C, Anna Nagar 3rd Cross,
Pidamaneri Kumarasampettai Post,
Dharmapuri Taluk,
Dharmapuri District.

2. The Assistant Engineer/O&M/Dharmapuri/West,
Dharmapuri Electricity Distribution Circle, TANGEDCO,
Narasimmachari Street,
Dharmapuri Taluk,
Dharmapuri District — 636701.

3. The Superintending Engineer, – By Email
Dharmapuri Electricity Distribution Circle,
TANGEDCO,
Salem Main Road, Opposite to Collectorate,
Dharmapuri - 636 705.

4. The Chairman & Managing Director, – By Email
TANGEDCO,
NPKRR Maaligai,
144, Anna Salai, Chennai -600 002.

5. The Secretary, – By Email
Tamil Nadu Electricity Regulatory Commission,
4th Floor, SIDCO Corporate Office Building,
Thiru-vi-ka Industrial Estate,
Guindy, Chennai – 600 032.

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