

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. N.Kannan, Electricity Ombudsman

A.P.No. 77 of 2024

M/s. Provincial, Immaculate Heart of Mary Provincialate,
Provincialate Building, Srinivasan Pillai Street,
Thirupathiripuliyur, Cuddalore – 2.

. Appellant
(Rep. by Sr. Agnes Mary)

Vs.

The Executive Engineer/O&M/Cuddalore,
Cuddalore Electricity Distribution Circle,
TNPDC,
No. 7-A, Nellikuppam Main Road,
Cuddalore-607 001.

. . . . Respondents
(Tmt. M.Valli, EE/O&M/Cuddalore)

Petition Received on: 13-11-2024

Date of hearing: 12-12-2024

Date of order: 31-12-2024

The Appeal Petition received on 13.11.2024, filed by M/s. Provincial, Immaculate Heart of Mary Provincialate, Provincialate Building, Srinivasan Pillai Street, Thirupathiripuliyur, Cuddalore – 2 was registered as Appeal Petition No. 77 of 2024. The above appeal petition came up for hearing before the Electricity Ombudsman on 12.12.2024. 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 that the audit slip issued for S.C No.006-004-486 based on incorrect adoption of tariff may be declared as null and void.

2.0 Brief History of the case:

2.1 The Appellant has prayed to declare the audit slip No. 159 dated 05.01.2024 issued for S.C No.006-004-486 based on incorrect adoption of tariff as null and void.

2.2 The Respondent has stated that the demand raised through the audit slip is genuine and justified, as it is based on detected shortfalls from incorrect tariff adoption.

2.3 Hence the Appellant has filed a petition with the CGRF of Cuddalore EDC on 31.08.2024.

2.4 The CGRF of Cuddalore EDC has issued an order dated 30.09.2024. 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 Cuddalore EDC issued its order on 30.09.2024. The relevant portion of the order is extracted below: -

“Order:

மனுதாரர் அளித்த மனு மற்றும் ஆவணங்கள் மற்றும் எதிர்மனுதாரர்கள் அளித்த எதிருரை மற்றும் ஆவணங்கள் அடிப்படையில் மனுவின் மீது மன்றத்தின் தீர்ப்புரை வழங்க முடிவு செய்யப்பட்டது.

கேட்புரை நாளில் மனுதாரரின் அங்கீகரிக்கப்பட்ட பிரதிநிதி மற்றும் எதிர்மனுதாரர்கள் எடுத்துரைத்த வாதங்கள். மனுதாரர் அளித்த மனு மற்றும் எதிருரைகள் ஆகிய அனைத்தையும் ஆராய்ந்து பார்க்கும் போது கீழ்க்கண்டவை இவ்வழக்கிற்கான வினாவாக எழுகிறது.

1. மனுதாரரின் மின் இணைப்பு எண் 006-004-486-ற்கு தணிக்கை குழுவினரால் சராசரி தணிக்கை தொகைக்கு கணக்கிடப்பட்ட 02/2015 முதல்

08/2023 வரையிலான காலத்தினை குறைத்து சராசரி தணிக்கை தொகைக்கு கணக்கிடும்படி எதிர்மனுதாரர்களுக்கு உத்தரவிட இயலுமா?

2. வேறு பரிகாரங்கள் பெற மனுதாரர் தகுதியானவரா?

வழக்கெழு வினா-1

1. மனுதாரரின் மின் இணைப்பு எண் 006-004-486 ற்கு தணிக்கை குழுவினரால் சராசரி தணிக்கை தொகைக்கு கணக்கிடப்பட்ட 02/2015 முதல் 08/2023 வரையிலான காலத்தினை குறைத்து சராசரி தணிக்கை தொகைக்கு கணக்கிடும்படி எதிர்மனுதாரர்களுக்கு உத்தரவிட இயலுமா?

மனுதாரரின் மின் இணைப்பு எண் 006-004-486 ற்கு தமிழ்நாடு மின்சார ஒழுங்குமுறை ஆணைய மின்வழங்கல் விதி Chapter 3 (21)(1&2) ன் படி தணிக்கை குழுவினரால் சராசரி தணிக்கை தொகை விதிக்க கணக்கிட எடுத்துக்கொள்ளப்பட்ட 02/2015 முதல் 08/2023 வரை காலத்தினை குறைத்து சராசரி தணிக்கை தொகை கணக்கிடும்படி எதிர்மனுதாரர்களுக்கு உத்தரவிட இயலாது என இம்மன்றம் முடிவு செய்கிறது. 02/2015 முதல் 08/2023 வரை தணிக்கை குழுவினரால் விதிக்கப்பட்ட சராசரி தணிக்கை தொகையை வசூலிக்க நுகர்வோருக்கு உரிய அறிவிப்பு கடிதம் அளித்து தணிக்கை தொகை வசூல் செய்யுமாறு எதிர்மனுதாரர்களுக்கு இம்மன்றம் உத்தரவிடுகின்றது.

வழக்கெழு வினா -2

வேறு பரிகாரங்கள் பெற மனுதாரர் தகுதியானவரா?

மேற்கண்ட வழக்கெழு வினா -1 மனுதாரருக்கு எதிராக முடிவு கண்டுள்ள நிலையில் வேறு எந்த பரிகாரமும் மனுதாரருக்கு கிடைக்க கூடியதில்லை என்று இம்மன்றம் முடிவு செய்கிறது. செலவுதொகை எதுவும் இல்லை."

4.0 Hearing held by the Electricity Ombudsman:

4.1 To enable the Appellant and the Respondent to put forth their arguments, a hearing was conducted on 12.12.2024 through video conferencing.

4.2 On behalf of the Appellant Sr. Agnes Mary attended the hearing and put forth her arguments.

4.3 The Respondent Tmt. M.Valli, EE/O&M/Cuddalore of Cuddalore EDC 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 orders. Further, the prayer which requires relief under the Regulations for CGRF and Electricity Ombudsman, 2004 alone is discussed hereunder.

5.0 Arguments of the Appellant:

5.1 The Appellant has stated that the CGRF erred in holding that as per the circular issued by finance department, TANGEDCO in Lr. No. CFC/FC/R/D. No. Dated 11.10.2011 the demand of arrears recoverable, raised by the respondent in respect of incorrect adoption of tariff is correct and holds good in law.

5.2 The Appellant has stated that the CGRF failed to see that audit slip issued by TANGEDCO audit department is baseless and has been issued without following rules laid in the act. Further CGRF failed to consider the factors which are to be looked into while collecting the alleged arrears beyond period of 2 years: First of all it is not arrear of any bill and hence it could not be construed as arrears at all, even if it is considered as arrears only last 2 years of arrears alone can be claimed as per section 56(2) of Electricity Act.

- I. In case of incorrect adoption of tariff, short levy etc. The demand should be made by way of supplementary bill towards the energy unbilled.
- II. When the sum has become due from any consumer, such sum should be one that become first due and has been shown continuously as recoverable as arrears of charges for electricity supplied. In such case no demand shall be made after period of 2 years when such sum becomes due.

5.3 The Appellant has stated that the CGRF failed to see that only the supplementary bill can be collected after the period of 2 years when it becomes due. In this case on hand, the amount quoted as arrears is not a case of supplementary bill for energy unbilled. Rather, it is a case of incorrect adoption of tariff which is this subject matter in dispute before the appellate authority. In such case the bar of limitation under sec 56(2) of Electricity Act could definitely come in to play. Further the respondent has failed to show that, the arrears proposed to be collected from

the appellant have been shown continuously as recoverable charges for Electricity supplied.

5.4 The Appellant has stated that the learned CGRF failed to see that in so far service connection No.006-004-486 is concerned, it was under tariff No. IA till 2017. During the end of 2017, the tariff was changed to VI, as requested by the consumer since the building was subject to demolition and construction. Bill issued for demolition work, proof of payment for demolition, quotation for new construction, construction completion certificate are filed herewith to show that the building pertaining to service No.006-004-486 was under, construction from 2017 to 2020. This appellant till date paid the bill quoted by TANGEDCO and there is no arrears of any bill raised by the respondent. Now the disputed arrears alleged by respect is not at all arrears and it is only an audit slip issued by account section without raising any bill. So it cannot be construed as arrears.

5.5 The Appellant has stated that the CGRF failed to see that as per rules, respondent should raise a supplementary bill based upon audit slip and this appellant should be given an opportunity to explain the same, then if not paid it can be construed as arrears. Even such recovery should be consonance with Sec. 56(2) of Electricity Act 2003.

5.6 The Appellant has stated that the CGRF failed to see that the demand raised by Assistant Engineer, TANGEDCO, Thiruppapuliur, Cuddalore is only by way of on audit slip in Slip No.159 dated 05.01.2024. It is not a properly raised bill quantifying the liability of consumer nor is it a revised bill or supplementary bill raised for the first time. So the judgments referred to in the circular issued by Finance branch of TANGEDCO are not applicable to the facts of the present case. The alleged arrears claimed in the audit slip are clearly barred by the Sec.56 (2) of the Electricity Act, 2003.

5.7 The Appellant has stated that the learned CGRF having received the written explanation submitted by the appellant on 23.09.2024, did not even discuss the submission of the appellant in its order rather mechanically passed an arbitrary

order in a hasty manner. The CGRF after communicating the order has sent correspondence to the appellant and respondent on 19.10.2024 treating the submission of the appellant as a separate petition, which is against law and principles of natural justice.

5.8 The Appellant has prayed that the audit slip issued for S.C No.006-004-486 based on incorrect adoption of tariff may be declared as null and void, and thus justice be rendered.

6.0 Arguments of the Respondent:

6.1 The Respondent has stated that the Service No. 006-004-486, up to 17.06.2013 existed in tariff II-B2 and on 17.06.2013 changed to tariff IA on field officials inspection changed to tariff V on 11.08.2023 which is utilised for newly constructed Auditorium for seminar purpose to sisters working in the institution. (Institution shifted to some other place).

6.2 The Respondent has stated that the Appellant states that they only represented for construction purpose in the year 2017, from the SC No 006-004-486 while reviewing consumer ledger was not tallied. The service location of 006-004-354 existing in the opposite side of the building in the same premises.

6.3 The Respondent has stated that in that service only they asked temporary supply for construction purpose and tariff changed to tariff VI on 12/2017. Now the appellant brought completion certificate for the year 2020 itself. They did not approach for tariff change up to 08/2023 itself. On enquiry our officials only guided during inspection to convert in to permanent tariff V on 08/2023 for the SC No. 006-04-354.

6.4 The Respondent has stated that their officials detect shortfall, they raised a Miscellaneous slip in the concerned service connection number. In the same way Audit detect a shortfall and they raised a Miscellaneous slip in the concerned service connection number. Moreover Lr. No. CFC/FC/R/D. No. /Dt. 11.10.2011 also clearly states that there is no bar in the said act to raise a supplementary bill. Hence, slip

raised in the SC No. 006-004-486 is genuine one and no clear cut evidence in dropping of the same.

6.5 The Respondent has stated that the present tariff is tariff V. They did not avail TSC for the above service (SC NO 006-004-486). The above service utilised already for sisters quarters. During 08/2023 the above service utilised for newly constructed auditorium for taking seminars only observed and tariff changed as tariff V as per consumer request.

6.6 The Respondent has stated that the temporary supply tariff availed from SC No.006-004-354 only in the same premises on 15.12.2017 and it was changed from tariff VI to tariff V during 08/2023 only. He also stated that the Appellant not requested for tariff change till 08/2023. The Service (006-04-486) was effected on 02.04.1992 in tariff 2B2.

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 are the issues to be decided.

7.2 With regard to Service Connection No. 006-004-486, the Appellant states that the connection was under Tariff No. IA until 2017, after which it was changed to Tariff VI following a request made due to demolition and reconstruction activities. The Appellant has submitted supporting documents, such as bills for demolition work, proof of payment, and construction completion certificates, to establish that the building was under reconstruction between 2017 and 2020. The Appellant insists that all bills issued during this period were paid in full and that there were no arrears outstanding. Therefore, the amount mentioned in the audit slip is not an arrear but merely an unsubstantiated claim by the audit section.

7.3 The Appellant contends that the Consumer Grievance Redressal Forum (CGRF) erred in upholding the demand raised by TANGEDCO based on an audit slip alleging arrears due to incorrect adoption of tariff. The Appellant asserts that the

audit slip issued by the audit department of TANGEDCO is baseless as it was not issued in compliance with the rules laid down in the Electricity Act, 2003. The Appellant further highlights that the alleged arrears do not arise from unpaid bills but from a retrospective adjustment based on a claimed tariff error. As such, the demand cannot be considered as arrears and is barred by the limitation period under Section 56(2) of the Act, which restricts recovery of arrears beyond two years from when the amount first became due.

7.4 The Appellant argues that, in cases involving incorrect adoption of tariff or short levy, the proper course of action is to issue a supplementary bill quantifying the liability for the unbilled energy. However, in this case, no such supplementary bill was issued, nor was any opportunity provided to the Appellant to explain or dispute the alleged arrears. The Appellant further emphasizes that, even if the claim is treated as arrears, it must be shown continuously as recoverable under the law, which the Respondent has failed to demonstrate.

7.5 In conclusion, the Appellant contends that the demand raised based on the audit slip is invalid, as it does not conform to the requirements of the Electricity Act, 2003, particularly Section 56(2). The Appellant prays that the audit slip for Service Connection No. 006-004-486, issued on the grounds of incorrect adoption of tariff, be declared null and void.

7.6 The Respondent's counter-arguments primarily focus on the history and tariff classification of Service Connection No. 006-004-486, and the validity of the demand raised based on the audit findings. The Respondent states that the service was originally under Tariff II-B2 until 17.06.2013, after which it was changed to Tariff IA following an inspection by field officials. Later, on 11.08.2023, the tariff was changed to Tariff V as the service was being utilized for a newly constructed auditorium used for seminars conducted for the sisters working in the institution. The Respondent clarifies that the institution had shifted to another location, and the current usage justified the change in tariff.

7.7 The Respondent disputes the Appellant's claim that the service was requested for construction purposes in 2017. They state that a separate service, SC No. 006-004-354, located on the opposite side of the building within the same premises, was used for temporary supply for construction purposes. This service was changed to Tariff VI in December 2017 and later converted to Tariff V in August 2023. The Respondent argues that the Appellant failed to approach the department to request a tariff change for SC No. 006-004-486 until August 2023, despite completing construction in 2020. The change to Tariff V was only made following an inspection by field officials who guided the Appellant during the process.

7.8 The Respondent further explains that the shortfall in charges was detected by their officials during inspection, leading to the issuance of a Miscellaneous Slip for the concerned service connection. Similarly, the audit department also identified a shortfall and raised a corresponding slip. The Respondent cites Lr. No. CFC/FC/R/D.No. /Dt. 11.10.2011, which clearly states that there is no legal bar under the Electricity Act, 2003, to raise a supplementary bill for shortfall or incorrect tariff adoption. Therefore, the Respondent asserts that the audit slip issued for SC No. 006-004-486 is valid and legitimate, and there is no basis for dropping the demand.

7.9 The Respondent further emphasizes that the current tariff for SC No. 006-004-486 is Tariff V and clarifies that no Temporary Supply Connection (TSC) was availed for this service during the construction period. They argued that, since the service was previously utilized for "sisters' quarters" and is now being used for a newly constructed auditorium for seminars, the tariff classification was appropriately revised to Tariff V. The delay in the tariff change until August 2023 was due to the Appellant's failure to request the change earlier.

7.10 In summary, the Respondent argued that the demand raised through the audit slip is genuine and justified, as it is based on detected shortfalls from incorrect tariff adoption. They contend that the Appellant's failure to request timely tariff revision and their subsequent use of the service for purposes beyond its earlier

classification necessitated the recovery of the shortfall, in accordance with the rules and regulations.

7.11 Based on the arguments presented by both the Appellant and the Respondent, the following observations are made. The Respondent's own statements reveal inconsistencies and confusion regarding the two service connections, SC No. 006-004-486 and SC No. 006-004-354. The Respondent has admitted that temporary supply for construction purposes was availed under SC No. 006-004-354 in December 2017 and that this connection was changed to Tariff VI. The Respondent further clarified that SC No. 006-004-486 was not utilized for temporary construction purposes, and the tariff for this connection was not changed until August 2023.

7.12 During the hearing, when the Respondent was specifically questioned about the tariff applicable to SC No. 006-004-486 before it changed to Tariff V on 11-08-2023, the Respondent stated that the service connection was under Tariff IA. It was evident that no entry indicating a tariff change had been recorded in the consumer ledger, suggesting that the tariff remained unchanged in the official records. When asked whether the Appellant had made any request for a tariff change during the audit claim period, the Respondent was unable to provide a definitive affirmative response. Regarding whether the service connection was utilized for construction purposes or for purposes other than those intended under Tariff IA, it was noted that such discrepancies had not been observed during any assessment of SC No. 006-004-486. The Respondent explicitly stated that no tariff change had occurred for this connection.

7.13 The Respondent further clarified that a temporary tariff had been applied to SC No. 006-004-354. However, no report or additional evidence regarding this application was made available. This admission raises a critical question: on what basis did the audit claim a commercial tariff for SC No. 006-004-486 for the period from 02/2015 to 08/2023? The audit's demand appears flawed, as it incorrectly assumes that SC No. 006-004-486 was used for purposes justifying a commercial tariff. In reality, as admitted by the Respondent, the temporary supply for

construction was taken under a completely separate service connection, and no report of misuse of the tariff was found during the period of the alleged short levy.

7.14 Furthermore, the Respondent failed to provide any documentary or substantive evidence to justify the imposition of a commercial tariff on SC No. 006-004-486 during the disputed period. The lack of clarity in the Respondent's statements, coupled with their failure to conduct proactive inspections or communicate regarding the proper tariff classification, demonstrates that the delay or oversight in revising the tariff cannot be attributed to the Appellant. In light of the above, the audit slip and subsequent demand for arrears under a commercial tariff for SC No. 006-004-486 lacks merit. The audit claim against the Appellant is not substantiated by evidence or supporting documentation. The demand is based on incorrect assumptions and lacks proper factual basis. Therefore, the audit slip issued for SC No. 006-004-486 is not valid, and the claim against the Appellant is liable to be set aside.

8.0 Conclusion:

8.1 As per the finding in the above paragraphs, the audit's demand appears to stem from incorrect assumptions and confusion between the two service connections. Therefore, the claim raised through the audit slip lacks merit and should be set aside.

8.2 With the above findings A.P.No.77 of 2024 is finally disposed of by the Electricity Ombudsman. No Costs.

(N.Kannan)
Electricity Ombudsman

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

To

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