

**BEFORE THE HARYANA ELECTRICITY REGULATORY
COMMISSION AT PANCHKULA**

Case No. HERC/PRO - 12 of 2021

Date of Hearing : 24.08.2021

Date of Order : 01.09.2021

In the Matter of

**Petition for execution of Consumer Grievance Redressal Forum
Hisar order dated 01.02.2021 in Case No. DH/CGRF/3272/2020.**

Petitioner

R K Arora, House No. 478, Sector 12 A, Panchkula

VERSUS

Respondents:

1. XEN / OPERATION, S/U Division, DHBVN, Gurugram
2. SDO / OPERATION, DLF Sub Division, DHBVN, Gurugram

Present:

On behalf of the Petitioner:

Sh. R.K. Arora, Petitioner

On behalf of the Respondents:

1. Sh. R.K. Sodha, Director 'OP' DHBVN, Hisar
2. Sh. S.K. Singh, SE 'CBO' DHBVN, Hisar
3. Sh. P.K. Chauhan, SE 'OP' Circle, DHBVN, Gurugram-II
4. Sh. Kuldeep Nehra XEN Sub Urban 'OP' Division Gurugram-II
5. Sh. Kuldeep Yadav, SDO 'OP' DHBVN, DLF, Gurugram

QUORUM

Shri R.K. Pachnanda, Chairman

Shri Pravindra Singh, Member

Shri Naresh Sardana, Member

ORDER

1. **Background of the Case:**

1.1 The petitioner, R K Arora, a domestic consumer of DHBVN bearing account no. 0128455919 under SDO (OP) S/Divn., DHBVN, DLF, Gurugram submitted that the respondent no.2 did not implement the orders by the CGRF, Hisar. The non-compliance of the orders of the Forum by respondent no.2 has forced the petitioner to file this petition as per provisions contained in the Regulation 2.41 of the Haryana Electricity Regulatory Commission (Forum and Ombudsman) Regulations, 2020 reproduced hereunder (**emphasis added**).

2.41 The decisions of the Forum will be recorded duly supported by reasons. The order of the Forum will be communicated to the complainant, Licensee and the concerned Dispute Settlement Committee, if applicable, in writing within 7 days of the passing of the order. The Licensee shall comply with the order of the Forum within 21 days from the date of receipt of the order. In appropriate cases, considering the nature of the case, the Forum, upon the request of the Licensee, may extend the period for compliance of its order up to a maximum of three months. In case of non-compliance of the order of the Forum or that of a Dispute Settlement Committee, the aggrieved consumer may approach the Commission who will provide the consumer as well as the Licensee an opportunity of being heard. The Commission may initiate proceedings under section 142 of the Act for violation of the Regulations framed by the Commission.”

1.2 It is brought to the kind notice of the Hon'ble Commission that the respondents have not complied with the order passed by the CGRF, DHBVN Hisar. The Commission may initiate proceedings under section 142 of the Act, issue suitable directions to the respondents for compliance of the order of the CGRF, DHBVN Hisar, impose penalty on the defaulters and award compensation to the petitioner for the mental agony.

1.3 The case was finally heard on 27.01.2021 at Gurgaon by the CGRF. The petitioner did not attend the proceedings. The representative of the respondent SDO submitted reply stating that sundry of Rs 2736/- in lieu of slab benefit has been prepared and case had been sent to CBO vide Case ID No. 9743319567 which will be reflected in the next bill. The Forum decided to dispose of the case with direction to respondent SDO to deliver the rectified bill to the complainant within 15 days with intimation to the Forum within one month.

1.4 However, neither was the amount of Rs 2736/- as sundry reflected in the next bill issued on 03.02.2021, nor was the rectified bill delivered within 15 days or the compliance reported to the Forum by the respondent SDO as per directions of the Forum. This position was conveyed to the Forum that compliance of the order was not made by the respondent SDO through email dated 05.03.2021 by the petitioner.

- 1.5 Meanwhile, the petitioner vacated the premises and moved to his own apartment in sector 62, Gurgaon. It has, however, been confirmed from the landlord that the sundry of Rs 2736/- was not reflected in the next bill issued on 09.04.2021 either.
- 1.6 Since the respondent SDO has neither complied with the CGRF orders nor has filed any appeal against the orders, the petitioner is left with no alternative but to approach the Hon'ble Commission as per Regulation 2.41 of the Haryana Electricity Regulatory Commission (Forum and Ombudsman) Regulations, 2020. Apart from implementation of the order of the Forum, the petitioner prayed for award of penalty/compensation as per provisions in the Haryana Electricity Regulatory Commission (Standards of Performance of Distribution Licensees and Determination of Compensation) Regulations, 2020 besides Rs 5000/- for the mental agony the petitioner went through on account of adamant behaviour of the respondent SDO.

Prayer

In view of the facts stated above, Hon'ble Commission may be pleased to grant following relief(s) to the petitioner:

- I. To admit the petition as per provisions of relevant Regulations.
- II. May issue suitable directions to the respondent SDO to implement the orders of the Forum.
- III. To award penalty / compensation to the petitioner as per provisions of SOP Regulations besides Rs 5000/- on account of mental agony to the petitioner due to non-compliance of the orders of CGRF, DHBVN, Hisar.
- IV. To reimburse the cost of preparation of this petition amounting to Rs 1000/-
- V. Condone any inadvertent omissions/errors/shortcomings / delay due to present situation of Covid pandemic and permit the petitioner to add/change/modify/alter this filing and make further submissions as may be required at later stage. And
Pass such other and further orders as are deemed fit and proper in the facts and circumstances of the case.

2. Proceedings:

- 2.1 The case was initially heard on 28.07.2021 through video conferencing in view of the Covid-19 Pandemic
- 2.2 Sh. R.K Arora, the petitioner, reiterated the contents of the petition and submitted that respondent no.2 failed to comply with the orders of the CGRF and requested the Commission to award penalty /compensation as per provisions of SOP regulations. Per contra, SDO, DLF appeared for respondent and submitted that as per the orders of the CGRF, a sundry amounting to Rs. 2736/- in lieu of slab benefit

- was prepared and sent to Commercial Back Office (CBO), but the CBO office has not implemented the same due to some objections.
- 2.3 The Commission directed the respondents to file a detailed affidavit as to why penalty as per SOP Regulations should not be imposed for not complying with the orders of CGRF as per timelines before next date of hearing.
- 2.4 The case again came up for hearing on 03.08.2021. The SDO/DLF submitted that in compliance with CGRF's order, a sundry for adjustment of amount was framed and submitted to CBO (Commercial Back Office), since CBO is solely empowered for approval. But the case was rejected by audit team of CBO headed by Sh. Pawan Kumar, Accounts Officer. The matter has again been taken up with CBO and it is expected that the issue will be resolved within a weeks' time. When asked, Xen 'OP' appearing for respondents submitted that SE/OP will join virtual hearing shortly.
- 2.5 As per Regulation 8 of the HERC (Standards of Performance of Distribution Licensees and Determination of Compensation) Regulations, 2020, bill of any consumer is required to be corrected within 3 days. In case the future bill (the second bill after correction of wrong bill), is found to be wrong the SDO in charge shall be liable to pay penalty of Rs. 500/- per default. Further, as per Regulation 9, the Distribution Licensee, unless and otherwise stayed by court/forum of competent jurisdiction shall implement the decision rendered by the CGRF or the Electricity Ombudsman within the period stipulated in such order. As per regulation 2.41 of the HERC (Forum and Ombudsman) Regulations, 2020, this CGRF order in the case, was required to be complied within 21 days from the date of receipt of the order. The order of CGRF was pronounced on 01.02.2021.
- 2.6 The Commission observed that as per directions of the Commission during hearing on 28.07.2021, SE OP and SE CBO have not appeared. Further, the respondent has admitted the non-compliance of CGRF's orders in the matter and has not come forth with any explanation regarding directions of the Commission during the last hearing, wherein the DISCOM was directed to file a detailed affidavit as to why penalty as per SOP Regulations should not be imposed for not complying with the orders of CGRF as per timelines. Therefore, the concerned SDO OP and XEN OP, for not meeting the Standards of Performance, are awarded a penalty of Rs.10,000/- (to be shared equally) as per regulation 3.3.2.
- 2.7 The Commission, having heard complainant and DISCOM, further decided to impose penalty of Rs. 10,000/- each on SE OP Gurugram-II and SE CBO DHBVN under section 142 of the Electricity Act, 2003 as they have not only failed in performance of their supervisory duty of implementation of CGRF's order in stipulated time period, but also have been found responsible for not complying with the directions of the Commission by not filing an affidavit.

The amount shall be deposited in the office of the Commission by Drawing and Disbursing Officer (DDO) of the Distribution Licensee within two weeks' time of issue of this order.

The entry of this penalty due to dereliction of duty and official misconduct be recorded in their service record.

SDO (OP) DLF Gurugram, Reply dated: 20.08.2021 and 23.08.2021

3.1 The SDO (OP) DLF Gurugram vide its reply dated 20.08.2021 submitted that in pursuance to the order of the Hon'ble Commission dated 03.08.2021 and in compliance of the Hon'ble CGRF court's order, the amount of Rs. 2736/- has been credited to the consumer bearing account number 0128455919 in the name of Sh. Sumit Singh. The revised bill has also been delivered to the consumer.

3.2 Further SDO(OP) DLF Gurugram vide its reply dated 23.08.2021 submitted that compliance of the Hon'ble Commission order dated 03.08.2021 has been made by his office.

A sum of Rs. 5000/- as ordered by the Hon'ble Commission has been deposited in the SBI Bank Account with reference to id 123533624672.

Application Dated: 23.08.2021 filed by SE, CBO, DHBVN, Hisar, SE 'OP' Circle-II DHBVN, Gurugram:

3.3 That the applicants consider themselves aggrieved by the impugned order dated 03.08.2021 passed by this Hon'ble Commission to an extent of imposing penalty of Rs. 10000/- each and further directions to enter the factum of imposing penalty on account of dereliction of duty and misconduct in the service record of the applicant.

3.4 That the direction imparted in the order dated 03.08.2021 is erroneous. Moreover, there are certain mistakes and errors apparent on the face of record of this case and there are other sufficient reasons for review of the impugned judgement, therefore, this order is liable to be reviewed on the grounds specified in the applications. The applicants also prayed for waiving off the penalty of Rs10,000 awarded to them and further directions to enter the factum of imposing penalty on account of dereliction of duty and misconduct in the service record of the applicant.

4. Commission Analysis and Orders:

4.1 The case came for final hearing on 24.08.2021 as scheduled through video conferencing in view of Covid-19 Pandemic.

4.2 At the outset, Sh. R.K Sodha, Director 'OP' DHBVN, submitted that as he has been conveyed to attend the hearing at the last moment, he could not go through the case. As such SE 'OP' and SE 'CBO' shall present the case.

SE 'CBO' requested the Commission to reconsider the penalty of Rs. 10,000 imposed on him vide interim order date 03.08.2021. He

submitted that the case was brought to his knowledge only on 17.08.2021, for the first time, that a refund is to be given in compliance with the order of the CGRF in the matter. The SDO has made an incorrect statement before the Commission regarding non-compliance of the order by CBO. The case of granting benefit of Rs. 2736 in the electricity bill of the petitioner was sent to CBO on 04.02.2021 without attaching the order of the CGRF. Subsequently, the request was withdrawn by the office of SDO. Again on 02.08.2021, the office of SDO submitted a request for adjustment of aforesaid amount with incomplete documents. When the matter came to his notice on 17.08.2021, the order of CGRF was implemented in its entirety immediately.

The commission observes that SE, being in-charge of Commercial Back Office (CBO), is responsible for getting the bills of consumers rectified within the specified timelines to avoid harassment to the consumers. The submission of SE CBO itself confirms that proper supervision is not being carried out to implement the orders of CGRF, what to talk about rectification of bills of the consumers at large referred to CBO by the respective field officers on a daily basis? How can the SE absolve himself of his supervisory duties or has he abdicated his responsibilities totally?

Further, it appears that with the establishment of the CBO office, the bills of the consumers are not being rectified within the timelines as per the SOP Regulations approved by the Commission. It is high time that the rationality of creation of the CBO office be relooked through advantages/disadvantages associated with it.

- 4.3 SDO 'OP' submitted that initially the case ID for implementation of order of the CGRF was generated on various dates i.e. 27th Jan 2021, 9th Feb 2021, 16th June, 2021 but due to severe infection of COVID-19, he could not pursue the case properly and there has been a lapse at subdivision level. The Commission observed that conflicting statements are being given by the officers of DHBVN and there is a dichotomy as, in the last hearing, it was submitted by the SDO 'OP' that the case was referred to CBO and it was rejected by the audit team whereas SE CBO states that BR of this case was removed on the request of the office of the SDO OP.
- 4.4 On enquiring from SE OP about his role for implementation of the CGRF's orders, he submitted that on the last date of hearing held on 28.07.2021, the concerned SDO 'OP' and XEN 'OP' had appeared in the case and no one apprised him about any specific direction issued to him to attend the hearing in person. Also, there were no specific directions in the order dated 28.07.2021 for the same. However, it is the duty of the concerned SDO and XEN to comply with the order of the CGRF.

The Commission questioned as to how many days does it take to implement the orders of CGRF or to file appeal against the same? The Commission further pointed out whether SDO 'OP' and XEN 'OP' were not under direct supervision of SE 'OP', that he was not aware of the matter and if there was any lapse on part of SDO & XEN, what action has been taken by his office against them? SE OP informed that SDO OP and XEN OP work under his control of superintendence. However, bills are referred to CBO for correction directly and non-implementation of orders of CGRF for adjustments of slab benefit was not brought to his notice.

The Commission observes that there is a system failure and requires review of existing system of rectification of bills through CBO, which is taking a much longer time than usual and the XEN OP and SDO OP have failed to perform their supervisory duty. However, as per HERC SOP regulations, the bills are to be rectified within 7 days.

The Director 'OP' DHBVN submitted that a review was conducted in the month of July, 2021 regarding the implementation of the CGRF orders. However, nobody intimated him that such an order is left to be complied with.

Therefore, the Commission directs the Director 'OP' to submit a report within 7 days as to how many times instructions/written notices/circulars have been issued in the past 6 months by the Nigam to the field formations, regarding the need for implementation of CGRF orders or rectification of bills of consumers in general.

That SE 'OP', being the supervisory officer of SDO 'OP' is supposed to keep track of all such disputed bills and ensure rectification of bills within time to avoid harassment of consumers and he has failed invariably to perform duty in present case.

4.5 Keeping in view the above discussion and deliberations, the Commission observes that the adjustment of Rs. 2726 has been carried out by DHBVN in the bill only after perusing the case before the Commission and the Commission decides as under:

- I. That the interim order passed by the Commission on 03.08.2021 with regard to imposition of penalty on the officers due to various lapses on their part in implementing the order of CGRF and causing harassment to the consumer stands and the Commission finds no cogent reason to interfere with.
- II. There are innumerable complaints of harassment of consumers regarding no bill being received, non-rectification of bills in time etc and the most convenient excuse of the Discoms is delay by the CBO. The very purpose and primary responsibility of Commercial Back Office (CBO) is to support the implementing officers of the Discoms with all the relevant facts, figures, documents etc. for informed and quick decision making. Thus, the CBO is to facilitate the honest and paying electricity

consumers, a timely and hassle-free rectification of their grievances. In fact, the CBO should clarify, if asked to do so by a consumer, each and every item / head under which a consumer has been asked to make payments for the usage of electricity by them.

It needs to be noted that the distribution and retail supply business of the Discoms is sustained from the revenue generated from the electricity consumers of Haryana. Hence, 'consumer sovereignty' ought to be recognised as the guiding philosophy, especially under the present circumstances, wherein the electricity consumer has no choice in the absence of competition in the supply of electricity. As a corollary, while dealing with any issue including but not limited to consumer meters, meter reading, billing, supply outages, voltage fluctuation etc. raised by a consumer, the Discoms ought to settle the issues / grievances / complaints as expeditiously as possible and in no case beyond the timeline prescribed for the purpose. This would also include implementation of any order(s) passed by a competent authority or any regulation / amendment / re-enactment thereof notified by the Commission.

However, in the present case, the CBO functioning, under the supervision of a senior officer of the Nigam, seems to have failed to take up and resolve the issues raised by consumers. Further, there are several complaints and feedback received directly in the Commission regarding consumers made to run from pillar to post just to rectify a faulty electricity bill. This raises serious doubts regarding the efficacy / functioning of the CBO. Hence, in order to plug the intra-office loopholes at the Discoms' end, lack of co-ordination between rank and file and absence of an established communication channel, as well as lack of effective cooperation between different levels of officers dealing with consumer issues, the Commission has considered it appropriate to form a committee comprising of senior officers of the Discoms as well as the Commission i.e. a committee of Director Technical HERC, Director 'OP' DHBVN, Director 'OP', UHBVN, and Joint Director Finance, HERC to be headed by Director Tariff, HERC is constituted to study the working of CBO including remedial measures in the interest of the consumers and public interest and submit its report within 2 months of issue of this order.

4.6 The petition is disposed of, accordingly.

This order is signed, dated and issued by the Haryana Electricity Regulatory Commission on 01.09.2021.

Date: 01.09.2021

(Naresh Sardana)

(Pravindra Singh)

(R.K. Pachnanda)

Place: Panchkula

Member

Member

Chairman