



BEFORE THE ELECTRICITY OMBUDSMAN, HARYANA

Haryana Electricity Regulatory Commission

Bays No. 33 - 36, Sector – 4, Panchkula-134109

Phone: 0172-2572299; Fax No. 0172-2572359

Website: - herc.gov.in E-mail: eo.herc@nic.in

(Regd. Post)

Appeal No. : 18/2018
Received on : 13.08.2018
Registered on : 14.08.2018
Date of Hearing : 10.09.2018
Date of Order : 11.09.2018

In the matter of:-

Appeal against the order of the CGRF, DHBVNL, Hisar, dated 26.06.2018, in case no. 2147 of 2018.

The Indian Airlines Pilots Co-Operative House Building Society through its president Capt. Ms. Anila Bhatia at Pilot's Court, Essel Tower, Sector-28, M.G.Road, Gurugram.

Appellant / Complainant

Versus

DHBVNL

Respondents

Before:

Er. R.C. Mahajan, Electricity Ombudsman

Present on behalf of Appellant

Sh. B.P. Aggarwal, Advocate

Present on behalf of Respondents

Sh. Gaurav Dahiya, SDO/Op, DLF City Sub Divn, DHBVN, Gurugram

ORDER

The Indian Airlines Pilots Co-Operative House Building Society, through its President, Capt. Ms. Anila Bhatia at Pilot's Court, Essel Tower, Sector-28, M.G.Road, Gurugram, has filed an appeal against the orders of the CGRF, Hisar, dated 26.06.2018, passed in case no. 2147/2018. A brief submission made in the appeal is as under:-

1. That the Appellant has obtained an electricity connection bearing Account No. 4015250000, under Sub Urban Gurgaon, Sub Division: G21-DLF, with the sanctioned load of 2982 kw and had paid the Security deposit as demanded by the Respondent.
2. That the society is having 245 apartments and they are using the electricity from the connection provided by the Respondent.
3. That on 09.01.2013, a notification was issued by the HERC for Single Point Supply to the Residential Colonies or Office cum Residential Complexes of Employers, Group Housing Societies and Commercial cum Residential Complexes of Developers and as per the aforesaid notification allowed an energy difference up to 4%, in case of supply on 11 kv, 5% in case of supply on 33 kv shall be permissible towards transformation and/or LT losses. The units have to be billed after deducting the 4% or 5% from the total units consumed during a particular month depending upon the supply obtained by the society but the Respondent has failed to comply with the aforesaid notification which was applicable w.e.f. 09/01/2013 and did not deduct 4% units for the relevant period when the supply was on 11 kv from the total units consumed and thus caused huge loss to the Appellant. However, the Respondent has given rebate of 4% on SOP but not from 09.01.2013 but from some later date.
4. That the Appellant has deposited a huge amount as a Security deposit and as per Section 154(4) of Electricity Act, 2003, the Respondents are liable to pay the interest from 2003 or from the date of deposit at bank rate which was 6% prior to 2012. For the period 2012-13 it was 9.5%, for the period 2013-14 it was 8.5%, for the period 2014-15 it was 9%, for the period 2015-16 it was 8.5% and for the period 2016-17 it was 7.75%. As per the Sales Instruction 9/2016, in case the interest accrued during the year is not adjusted in the consumer's bill for the first billing cycle of the ensuing financial year, the licensee shall be liable to pay interest at the rate of 18% for the period for which the payment of interest accrued is delayed but the Respondents have failed to comply with the provision of law.
5. That despite a legal notice on 13.03.2018, through the counsel, to refund the excess amount paid by the Appellant along with the interest, the Respondent failed to respond.

6. That since the Respondent failed to comply with the Supply Code /Regulation passed by the Hon'ble HERC and various circulars issued by the Respondent, a complaint was filed before the Consumer Grievances Redressal Forum, Hisar.
7. That without considering the submissions made by the Appellant, the Forum passed the order on dated 26.06.2018. Aggrieved with the order passed by the Forum, the Appellant has made the present appeal.
8. Giving the grounds for the appeal, the Appellant has prayed as under:
 - a. Accept the appeal of the appellant and the order dated 26/06/2018, passed by the Consumer Grievance Redressal Forum, Dakshin Haryana Bijli Vitran Nigam, Hisar, may kindly be set aside to the extent that the consumer will submit the documentary evidence regarding occupancy of flat and the consumer and officials of DHBVN shall sit together and reconcile the difference if any in the interest of ACD;
 - b. Direct the Respondent to revise the bill w.e.f. 09.01.2013, till date as per the Regulation dated 09.01.2013, and deduct the 4% units from the total units consumed and thereafter allow the slab system benefit for 245 dwelling units w.e.f. 01/04/2013 on the balance 96% units out of the total units consumed every months till date and;
 - c. Direct the Respondent to pay the interest on the ACD amount of Rs.29,82,000/- @ 18 % in terms of Sales circular No. D-29/2016 issued by the Respondent Company and as per the clause 5.8.1 & 5.8.2 of Regulation No. 34/2016, issued by the HERC under the Haryana Electricity Regulatory Commission (Duty to supply electricity on request, Power to recover expenditure incurred in providing supply and Power to require security) the Regulations, 2016 for the period 2013-14 and 2014-2015 and 2017-18 and ;
 - d. Pass any other or further order which this Hon'ble Commission may deem fit and proper in the facts and circumstances of the case in favour of Appellant in the interest of justice.

The appeal was received on 13.08.2018, and the same was registered as Appeal no.18 of 2018. The delay in filing the appeal was condoned as it was observed that the Forum's order dated 26.06.2018, was sent to the Appellant through registered post on 10.07.2018. Notice of motion was issued on 16.08.2018 and the first date of

hearing was fixed for 10.09.2018. The Respondent SDO was directed to submit the reply within 15 days.

The hearing was held on 10.09.2018, as scheduled. Both the parties were present. A copy of the reply submitted by the Respondent SDO was handed over to the Appellant and was also taken on record. During the hearing, the Appellant raised the following issues:-

1. Benefit of slab units:- The society has 245 dwelling units, which are existing prior to 2013 .As such, the benefit of the slab system, after taking 4% rebate on the consumption, may be allowed as per the prevailing Nigam's instructions.
2. Interest on ACD:- The Interest on ACD for the year 2013-14 has been given @ 6%, whereas the bank rate at that time was 9%. This interest has been given in 2018. Also for the period 2014-15, the interest on ACD has been given during 2018. Therefore, the Respondent is liable to pay interest @ 18% w.e.f. July 2016, as per the HERC notification dated 11-07-2016.

On this, the Respondent SDO submitted that the benefit of the slab system, as claimed by the Appellant, would be allowed on submission of the documentary evidence in respect of the occupancy of the dwelling units. Further, he stated that the Interest on the ACD, already given, would be reviewed in light of the Departmental instructions and the benefit, as claimed by the Appellant, would be allowed accordingly.

Both the parties deliberated the matter and showed their inclination to settle the matter mutually.

After the detailed deliberations, it was mutually agreed that the Appellant would submit a certificate issued by the Director, Town & Country Planning regarding occupancy of 245 dwelling units along with the electricity bills issued by the RWA to the individuals 245 units, as a documentary evidence. After considering the documentary evidence, the account will be overhauled by giving the benefit of slab system, as per the instructions of the Nigam regarding the prevailing Single Point Supply Regulations. Further, the Interest on the ACD, already given, would be reviewed in light of the Departmental instructions and the benefit, as claimed by the

Appellant, would be allowed accordingly. The Respondent SDO made a written statement in this regard.

In response, the Ld. Counsel for the Appellant stated in writing that “As mutually agreed and in view of the statement of the Respondent SDO, I have instructions to withdraw the present appeal”.

Keeping in view the above, material available on record and the submissions made by both the parties, the appeal is disposed of as “settlement by conciliation” in terms of HERC Regulations 37/2016 dated 29.07.2016.

The File may be consigned to the record.

Given under my hand on this day of 11th September, 2018.

Dated: 11th September, 2018

sd/-
(R.C.Mahajan)
Electricity Ombudsman, Haryana

Endst. No. HERC/EO/Appeal No. 18/2018/1623-30

Dated: - 12.09.2018

A copy of the above is forwarded to the following:

1. The Managing Director, DHBVNL, Vidyut Sadan, Vidyut Nagar, Hisar.
2. The Legal Remembrancer, HVPNL, Shakti Bhawan, Sector-6, Panchkula.
3. The Chief Engineer, ‘Op.’ Circle, DHBVNL, PO Power House, Punjabi Bagh, New Delhi-110035.
4. The Chairman, Forum for Redressal of Consumer Grievances, DHBVNL, Room No. 149-150, D-Block, Ground Floor, Vidyut Sadan, Vidyut Nagar, Hisar-125005 alongwith case file no. ch-8/Forum-2147/HSR dt. 20.08.2018.
5. The General Manager, SE, ‘Operation’ Circle, DHBVNL, Mehrauli-Gurgaon Road, Opposite Dev Cinema, Near Petrol Pump, Gurugram -122001.
6. The Executive Engineer, Operation, City Division, DHBVNL, Gurugram.
7. The SDO/Operation, DLF City Sub Division, DHBVNL SCO-2, Huda Market, Near Om Sweets, Sector-31, Gurugram.
8. The President, Capt. Ms. Anila Bhatia at Pilot’s Court, The Indian Airlines Pilots Co-Operative House Building Society Essel Tower, Sector-28, M.G. Road, Gurugram.