



BEFORE THE OMBUDSMAN

(Appointed by the Maharashtra Electricity Regulatory Commission under Section 42(6) of the Electricity Act, 2003)

606, 'KESHAVA', Bandra Kurla Complex, Bandra (East), Mumbai 400 051
Tel. / Telefax: 022-2659 2965

REPRESENTATION NO. 45 OF 2005

In the matter of Recovery of Past Arrears

Shri Sudhakar S. Chapke.....

Appellant

Versus

Executive Engineer,
Maharashtra State Electricity Dist.Co.Ltd, Khamgaon,
Dist. Buldhana.....

Respondent

Present:

1. Shri W.G.Gorde, Ombudsman
2. Shri S.N.Yadwad, Secretary

On behalf of the Appellant:

1. None

On behalf of the Respondent:

1. Shri S.A. Harpale, Executive Engineer, MSEDCL, Khamgaon
2. Shri K.R. Yarmal, Dy. Ex. Engineer, MSEDCL, Khamgaon

Date: 16th January, 2006

Shri Sudhakar S. Chapke, a consumer of electricity supplied by Maharashtra State Electricity Distribution Co. Ltd filed the representation on 7th December, 2005 against the order of Consumer Grievance Redressal Forum at Akola. The Forum issued the said order on 12th May, 2005 directing the Maharashtra State Distribution Co. Ltd (hereinafter referred to as the Respondent) to refund the amount of Rs. 24064/- to Shri Chapke which was deducted from his salary. The representation is registered at Serial No. 45 of 2005. Shri Chapke, the Appellant in the present case, has stated the grounds for the appeal as under:

2. Shri Chapke, the Appellant is a consumer as well as an employee of the Respondent working in the capacity of the Deputy Executive Engineer. He was occupying the staff quarters at Khamgaon from 1st September, 1995 to 4th July, 1998 when he was posted and working at Khamgaon with the Respondent. Upon vacation of the said quarter, he paid the electricity charges for the energy consumed during his stay at Khamgaon and handed over the key to the concerned Deputy Executive Engineer. The Respondent stated that the meter reading at the time of vacation of the quarter was 1670. The Respondent sometimes, later in February, 2000 observed that the meter reading of the said quarter was seen as 10462 and alleged that Shri Chapke has consumed the entire

electricity during his stay at Khamgaon. The Respondent raised the bill and deducted Rs. 24064/- from his salary in the year November, 2002, April, 2003, and May, 2003 towards the electricity charges and interest.

3. Aggrieved with the huge deduction from the salary, he protested on number of occasions to the Respondent requesting redress. It is claimed that the Respondent did not address the issues raised by Shri Chapke for a long time. He, therefore, approached the Consumer Grievance Redressal Forum at Akola against the action of recovery wrongly made by the Respondent.

4. The Forum heard the matter and made an order on 12th May, 2005 observing that the Respondent could not prove any manipulation of the readings by Shri Chapke. The meter readings after vacating the quarters were also found to be progressive. It is the responsibility of the Respondent to find out who used the quarter and consumed electricity after it was vacated by Shri Chapke. The Forum held that Shri Chapke is not responsible for the consumption of electricity units after he handed over the quarter to the Respondent's official on 4th July, 1998. The Forum ordered the Respondent to refund the entire amount of Rs. 24064/- within 8 days which includes charges for electricity as well as interest collected by the Respondent.

5. Notice was issued to both the parties to submit their say. The Appellant submitted that after the order issued by the Forum, the Appellant waited for the refund, which the Respondent did not make immediately. Aggrieved with the delay, the Appellant approached the Secretary, Maharashtra Electricity Regulatory Commission on 4th August, 2005 alleging non compliance of the Consumer Grievance Redressal Forum's order. The Secretary to Commission by letter dated 29th August, 2005 forwarded the Appellant's letter to the Chief Engineer (TRC) of the Respondent and directed to furnish the comments regarding compliance of the order by 12th September, 2005.

6. In the meantime, it is seen that the Respondent was in correspondence with the Forum exploring the possibility of appeal against the Forum's order. Finally, the Respondent refunded the amount of Rs. 24064/- to Shri Chapke by cheque dated 9th September, 2005.

7. Shri Chapke mentioned in his submission that he did not prefer any appeal against the Forum's order initially. However, as the relief as contemplated in the Forum's order was not released and was kept pending by the Respondent, he filed the Representation due to delay involved in receiving the refund. The Appellant now claims that although he has received the refund amount, he did not get any compensation i.e. interest cost and incidental expenditure since the principal amount of Rs. 16,000/- and interest amount Rs. 8064/- was deducted from his salary in the year 2002-2003.

8. The Respondent in its reply dated 22nd December, 2005 submits that there was no delay in releasing the refund as directed by the Forum. It agrees that the reference was made to the Forum as well as to the Ombudsman's office for seeking guidance whether it can appeal for relief against the order. The reply narrates the sequence of correspondence

entered by the Respondent with various officers including the Forum and the Commission, and submits that no delay was caused in implementing the Forum's order. The Respondent made a further submission on 7th January, 2006 to make the following points:

- a) that Shri Chapke was only the occupant of the quarter being the employee of the division and therefore is not allowed to approach the higher officers of the Government, Forum, etc for redress except with the previous sanction of the Competent Authority. He should not take recourse to any Court or Forum for vindication of any official Act. It has cited and produced a copy of Maharashtra State Electricity Distribution Co. Ltd's Employees Service Regulations in this behalf.
- b) meter reading between 8th December, 1994 to 29th December, 1994 was 2170 and it was 2360 in the month of August, 1995. The Respondent, therefore, says the meter reading of 1880 intimated by Shri Chapke while occupying the quarter on 1st September, 1995 was false. He also replaced the meter in the month of April, 1996 and no reason has been recorded for replacement.
- c) Shri Chapke was the billing in charge after April, 1997 and in that capacity, he omitted the arrears of Rs. 12129/- against the said quarter. During his stay, Shri Chapke paid charges for only 969 units in 34 months at an average of Rs. 52.40 per month. The Respondent concludes that Shri Chapke must have managed less billing and hidden the actual consumption of electricity. The Respondent submitted the meter reading sheets in support of its say.

9. The matter was heard on 10th January, 2006. The Appellant was not present. He had communicated his inability to attend and requested to proceed with the matter on merits. Shri S. A. Harpale, Executive Engineer and Shri K.R. Yarmal, Dy. Executive Engineer represented the Respondent. Both the representatives reiterated the submissions made earlier, which form part of the record. No new point was brought up during the argument.

10. The Respondent agrees in the submission that the consumption of the quarter was recorded by the meter reader on average basis and on low side being the quarter occupied by their boss. The meter reader even after vacation of the quarter, as a routine practice of the meter readers, recorded the readings on average basis at their own without visiting the actual spots. Based on these submissions, the Respondent prayed that the appeal should be dismissed.

11. The Respondent during the hearing, was asked to go through the meter reading sheets submitted alongwith the letter dated 7th January, 2006. It was brought to their notice that there are several quarters located in the same colony having different

connections and meter numbers. In most cases, the consumption recorded is very low and vary between 20 units to 80 units per month. The Respondent did not furnish any explanation to this observation as to why the consumption in several cases is low. In case of the Appellant's meter, the meter reading sheet indicate that the meter reader has put a remark during his reading on 7th October, 1998 that there is a different meter no. 1804528 in the said quarter and not the original meter no. 9010965597 on the basis of which the Respondent recovered the arrears from Shri Chapke. The Respondent did not have any explanation to this changed meter number. Remark of the meter reader on 26th December, 1998 was shown to the Respondent which indicates that in atleast 7 other cases on page 27 of the sheet, the meter numbers and the connection numbers do not tally and that there are either same readings in the previous months and the current months or very low difference in consecutive monthly readings leading to show low consumption.

12. Before we discuss the merit of the case, certain issues raised by the Respondent in its letter dated 7th January, 2006 must be dealt with. Shri Chapke, although he is an employee of the Respondent, does not lose his right to redress his grievance with the authorities in the capacity of a consumer. The argument of the Respondent in this behalf is without any basis and is not tenable. The Maharashtra State Electricity Distribution Co. Ltd Service Regulations bind the employee or an officer for his official commission and omission but does not restrict his rights and privileges enjoyed by any person under various laws of the land, which are independent of his duties and obligations as an employee.

13. As regards low consumption recorded by the meter in the quarter occupied by Shri Chapke, it is pertinent to note that most meters in the various quarters referred to above have shown low readings and consumption. The Respondent did not produce any evidence to substantiate its allegation that Shri Chapke intimated false reading while occupying the quarter. Further, readings of the meter are seen progressive and does not support the allegation made by the Respondent. It is a matter of concern if the meter reader has not carried out his duty impartially and faithfully to record the correct consumption in case of several officers occupying the official quarters in the colony. It is for the Respondent to have introspection done to assess the gravity of situation and to take corrective measures on urgent basis. In the present case, it is further observed from the meter reading sheets of 7th October, 1998 that the meter number in the quarter which was earlier occupied by Shri Chapke was quite different than the original meter number. There appears a clear possibility that the meter no. 9010965597 was removed sometime before October, 1998 and replaced by a meter no. 1804528 as recorded on the sheet. The Respondent is at liberty to investigate as to whether the earlier meter number was used somewhere else until the next officer occupied the said quarter in February, 2000. These are the issues not brought out on record earlier during the Forum's hearing but are extremely important for the Respondent to investigate.

14. The submissions made and the arguments during the hearing bring out some important facts. The order of the Forum issued on 12th May, 2005 was expected to be implemented in 8 days time. The Respondent preferred to correspond with various offices to find out whether it can appeal against the said order. The Secretary,

Maharashtra Electricity Regulatory Commission, by the letter dated 29th August, 2005 asked the Respondent to submit comments regarding compliance of the Forum's order before 12th September, 2005. Finally, it refunded the entire amount to the Appellant by a cheque dated 9th September, 2005. It was the correspondence exchanged by the Respondent with various offices, which caused delay in implementation of the order. Nevertheless, the Order has now been complied with the full refund amount granted to the Appellant.

15. On the replacement of meter by the Appellant, in April, 1996, the Respondent could not show anything to suggest of any ill motive on the part of the Appellant. This allegation is, therefore, of no consequence. Similarly, the Respondent did not elaborate anything on the allegation that Shri Chapke has omitted the arrears of his quarter when he was billing-in charge. No proof of any sort was furnished in this behalf.

16. The Appellant in his Representation has conceded that he did not file any appeal and waited for the Respondent to comply the order. Even during the hearing with the Forum, he did not press for any interest or other relief except the refund of Rs. 24064/-, which was recovered, from his salary. There is nothing to indicate that the Appellant sought and pressed for the interest and relief for the period between May, 2003 upto date of the Forum's order. Therefore, the Appellant cannot now raise the fresh issue seeking relief and interest for the period from the year 2003 till his approaching the Forum. It should be noted that after the Commission's letter dated 29th August, 2005 to the Chief Engineer (TRC) of Maharashtra State Electricity Distribution Co. Ltd asking the compliance of Forum's order to be submitted by 12th September, 2005, the Respondent complied it. As such, there is no case for seeking and granting any relief in terms of interest for the alleged delay either in complying the Forum's order or the period from 2002-03 when the Respondent effected recovery from the Appellant's salary to his filing grievance with the Forum.

17. It is observed that the Appellant has filed his Representation on 07th December, 2005 against the order issued by the Forum on 12th May, 2005. There is an inordinate delay of 209 days in filing the appeal. The Appellant has not put forth any convincing explanation for the delay except to say that he did not file the appeal with the hope that the Respondent would implement the order of the Forum early. This indicates that the Appellant had no point of appeal and he was satisfied with the order of the Forum and expected the said order be implemented as early as possible. Had he not been satisfied with the said order, it was for the Appellant to make out his case and file the representation in time. This does not give any respite or excuse to the Appellant to delay in filing the representation for a long time. The belated Representation, therefore, is clearly not maintainable within the provision of Regulation No. 16.2 of Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulations, 2003.

18. To summarize, apart from the representation being non-maintainable, the Appellant has not made out any case for further relief by way of interest or otherwise beyond what is actually granted to him in terms of the Forum's order. The Representation

therefore fails on maintainability as well as on merits. The Respondent has also failed to produce any evidence to indicate that the Appellant has manipulated meter readings during his stay in the quarter. In view of this, I do not find it necessary to deviate from the observations and the order made by the Forum, which is already complied with by the Respondent. The representation stands disposed off with this order.

Sd/
(W.G.Gorde)
Ombudsman

Sd/
(S.N.Yadwad)
Secretary