



HIMACHAL PRADESH ELECTRICITY OMBUDSMAN
SHARMA SADAN, BEHIND KEONTHAL COMPLEX, SHIMLA-171002
Phone: 0177-2624525, email: ombudsmanelectricity.2014@gmail.com

In the matter of:

Complaint No. 22/2020

M/S Vardhman Ispat Udyog, Village Bathri, Tehsil Haroli, Near Tahliwala, District Una 174301
(Earlier known as M/S H.N. Steel Castings Pvt Ltd)

– Complainant

Vs

1. Executive Director (Personal), HPSEB Ltd, Vidyut Bhawan, Shimla-171004
2. The Assistant Executive Engineer (E), HP State Electricity Board Limited, Tahliwala, Una HP 174507.
3. Sr Executive Engineer (E), Electrical Division, HPSEB Ltd, Gagret, Una HP-177201.

- Respondents

Complaint No. 22/2020, Registered on Dated: 13/07/2020
(Decided on 26/09/2020)

Counsels for:

The Complainant: Sh. Rakesh Bansal

The Respondents: Sh. Anil Kumar God, Advocate

Order

The Case was first received on 13/07/2020 and was sent for reconciliation to AEE Tahliwala, District Una, HP on 15/07/2020 with request to convey their acceptance for either negotiations or reconciliation. Er. K. D. Sharma, AEE, Tahliwala informed vide communication dated 23/07/2020 that higher authorities of HPSEBL have decided to assail the order of Consumer Grievances Redressal Forum dated 19/06/2019 by way of CWP in Hon'ble HP High Court. Since the case was not assailed, the case was listed for admission hearing vide notice dated 06/08/2020 on 29/08/2020.

AEE Tahliwala was present during the hearing and he informed that the reconciliation between parties is in process and will apprise the Electricity Ombudsman within next 10 days i.e. by 08/09/2020. The reply was sought by 15/09/2020 and rejoinder by 22/09/2020. Neither any intimation about the reconciliation proceeding have been received by 08/09/2020 nor any reply has been filed by the Respondents. Hence the delay in finalization of the case.



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Since the case pertains to non-implementation of orders of the CGRF dated 19/06/2019, hence the case is being decided based on the submissions made by the Complainant.

Brief Facts of the Case:

1. M/S Vardhman Ispat Udyog, Village Bathri, Tehsil Haroli, Near Tahliwala, District Una 174301 (Earlier known as M/S H.N. Steel Castings Pvt Ltd) have filed an application through Sh Pradeep Garg (hereinafter known as the Complainant) under regulation 28 of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 for non-implementation of the orders of CGRF vide Complaint No. 3325/4/18/068 passed on 19/06/2019. He has prayed to direct the Respondents to comply with the orders of the Forum and in case of non-implementation, inform the HPERC as required under reporting requirements and on continued non-implementation allow him to approach the HPERC under Section 142 of the Electricity Act, 2003.

B – The Complainant's Submissions:

1. The Complainant submits that on 16/10/2018, M/s H N Steel castings Pvt. Ltd now known as M/s vardhman Ispat udyog, filed a grievance with the Consumer Grievances Redressal Forum of HPSEBL viz: Complaint No. 3325/4/18/068 on various different matters involved in the different Complaints. On 19/06/2019 the complaint was disposed in favour of the Complainant.
2. He further submits that as per regulation 27 of the HPERC (Consumer Grievances Redressal Forum & Ombudsman) Regulations, 2013, the order of the Forum are to be complied within 21 days of the orders or such shorter period as may be directed by the Forum. More than one year has passed but the orders passed by the Forum has not been complied by the forum. In the orders passed by the Forum, the refunds are due to the Complainant is growing day by day.
3. The Complainant submits that Regulation 27 has been amended on 26/11/2019 in order to remove the contradiction between Regulation 27 and Regulation 28 of the HPERC (Consumer Grievances Redressal Forum & Ombudsman) Regulations, 2013 as it was not clear earlier whether to approach HPERC for non- implementation of Forum's orders or to approach the Electricity Ombudsman. Regulation 27 has now been suitably amended and the Complainant is filling the representation here seeking condonation of delay in filling on the ground of recent amendment of the Regulations.



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1. **Prayer:** the Complainant prayed that the representation may kindly be allowed in the interest of Justice, particularly in respect of the following; a) to condone the delay in filling this representation in view of the removal of contradiction between regulations vide a recent amendment as explained in para 3 above; b) to direct the Respondents to comply with the orders of the Forum completely in respect of the complaint; c) to inform the HPERC about this non- implementation as required under the reporting requirements of the complaint; d) in case of continued non- implementation even till the disposal of this representation, allow the Complainant for approaching the HPERC under section 142 of the Electricity Act, 2003; e) call for the record of the case and f) any other or further orders which this Hon,ble Ombudsman may deem fit and proper, in the facts and circumstances of the case may kindly be passed in favour of the Complainant company and against the Respondents/ Distribution Licensees.

C – The Respondents’ Submissions:

1. The Respondents have not filed any reply by the last date on 15/09/2020.

D – The Complainant’s additional submissions through rejoinder:

1. In absence of reply by the Respondents, the Complainant have also not filed any rejoinder.

E – CGRF order:

After having gone through case file carefully and having heard both the parties at length, the Forum comes to the following conclusions:-

1. That the request of the Complainant for overhaul of his account of late payment of surcharge per day basis instead of charging for full month is not acceptable; because the Respondent has acted as per general conditions of the tariff which say that surcharge for late payment shall be levied at the rate of 2% per month or part thereof.
2. The second request of the Complainant to overhaul the account for late payment of surcharge only on outstanding reduced amount, rather than on total bill amount, is acceptable because the general condition of the tariff provides that the surcharge for late payment shall be levied on outstanding amount excluding Electricity Duty/ Taxes of all the Consumers Categories. The Respondent Board is, therefore, directed to over haul the account of the Complainant accordingly.
3. With regard to the contention of the Complainant that Surcharge on Surcharge is not admissible, the Forum feels that the surcharge becomes part of total outstanding amount and



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as such the demand made by the Respondent Board is a per general Conditions of Tariff. The request of the Complainant on this, account cannot be granted.

4. With regard to refund/adjustment of an amount of Rs. 2,21,280/- overcharged as demand charge in the month of June, 2018, the Forum has noticed that the same has been refunded on 07/2018 by the Respondent Board. As such, no further order is required to be made in this regard.

5. During the course of arguments, the Learned Counsel for the Respondent Board admitted that a Demand Notice for the sum of Rs. 3,38,578/- on account of LVSS for the period 09/2009 to 02/2010, was actually grossly time- barred under Section 56(2) of Electricity Act 2003. Also , no documentary evidence was led by the Respondent Board to show that the demand notice in question is within limitation period. The Forum therefore, quashes the Demand Notice and set it aside.

6. The Forum holds that the Demand Notice for Rs. 4,20,000/- raised for period 04/2015 to 09/2015 was not time barred, because it was raised prior to the closure of unit which has subsequently now come into production again.

7. With regard to refund of an amount of Rs. 52,000/- toward interest of Additional Security Demanded the forum feels that it is not admissible as it has been levied as per the Security Regulation 414 of 2005, Sub- Regulation (4).

F - Analysis of the Complaint:

1. The case file at Consumer Grievances Redressal Forum have also been requisitioned and gone through.
2. During last hearing on 29/08/2020, AEE Tahliwala was present during the hearing and he informed that the reconciliation between parties is in process and will apprise the Electricity Ombudsman within next 10 days i.e. by 08/09/2020.
3. The reply was sought by 15/09/2020 and rejoinder by 22/09/2020.
4. Neither any intimation about the reconciliation proceeding have been received by 08/09/2020 nor any reply has been filed by the Respondents. In absence of the reply by the Respondents, the Complainant have also not filed any rejoinder.
5. Since neither any communication on reconciliation nor any reply have been filed by the Respondents, it is clear that the Respondents have not complied with the orders of the Forum dated 19/06/2019 even after a period of more than one year.



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6. Further as informed by Er. K. D. Sharma, AEE, Tahliwala through communication dated 23/07/2020 regarding decision of the Higher authorities to assail the orders of the Forum dated 19/06/2019 before Hon'ble HP High Court, the orders have also not been assailed by the Respondents before HP High Court as on date.

G – Issues in question:

1. There is only one issue whether the orders of the Forum have been complied with by the Respondents or not?

H – Findings on the Issues:

Issue No.1:

1. As is evident from the analysis and record of the case, the orders of the Forum in Complaint No. 3325/4/18/068 passed on 19/06/2019 have not been complied by the Respondents.
2. This is clear cut case of non-implementation of the orders passed by the Forum dated 19/06/2019.

I – Order:

1. The orders passed by the Consumer Grievances Redressal Forum in Complaint No. 3325/4/18/068 passed on 19/06/2019 have not been complied by the Respondents.
2. It is a fit case to be reported to the Hon'ble Commission for non-compliance of the orders of the Forum in Complaint No. 3325/4/18/068 passed on 19/06/2019
3. The Complaint filed by M/S Vardhman Ispat Udyog, Village Bathri, Tehsil Haroli, Near Tahliwala, District Una 174301 (Earlier known as M/S H.N. Steel Castings Pvt Ltd) is hereby disposed off.

Given under my hand and seal of this office.



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Electricity Ombudsman 26/09/2020