

BEFORE THE VIDYUT OMBUDSMAN

Present

K.Sanjeeva Rao Naidu
Vidyut Ombudsman

Dated: 12 -01-2012

Appeal No. 2 of 2012

Between

Sri P.Rajesham
S/o.P.Shankaram
M/s. Mallikarjuna Rice Mill, H.No. 1-42/13, Plot No.13,
Pravelli Enclave, Miyapur
Hyderabad.

... Appellant

And

1. Asst Divisional Engineer/Operation/Godavarikhani
2. Asst. Accounts Officer/ERO/ Godavarikhani
3. Divisional Engineer/Operation/ Peddapally

....Respondents

The appeal / representation filed on 14.12.2011 of the appellant has come up for final hearing before the Vidyut Ombudsman on 10.01.2012 at Hyderabad in the presence of Sri P.Rajesham appellant present and Sri M.Prabhakar Rao, ADE/O/Godavarikhani, Sri B.Eswar Prasad, DE/O/Manthini and Sri V.Srinivas, AAO/ERO/Godavarikhani for respondents present and having stood over for consideration till this day, the Vidyut Ombudsman passed / issued the following :

AWARD

The appellant herein filed this appeal claiming benefits of sick industry for the second time. The Forum passed an order on 10.01.2011. Aggrieved by the said order, the appellant preferred an appeal before this authority and this authority

passed an order on 11.02.2011 directing the respondents to extend the benefit of sick industries to the appellant as the tariff order itself is silent and also directed the Tariff wing to incorporate the same in the next tariff order. Aggrieved by the said order, the respondents filed W.P.no.10324/2011 questioning the orders passed by this authority. The appellant also filed WP No. 22292/2011 and the Hon'ble High Court passed a common order on 26.08.2011 by setting aside the order passed by this authority and remanded the matter to the Forum with the following observation.

“The forum while considering the case in C.G.No.297 of 2010 as directed herein above shall also consider the application of the consumer industry for restoring the service connection subject to such conditions, as the forum deems fit and appropriate. It is made clear that if the adjudication of the grievance of the consumer industry takes time, the forum would be free to entertain the application of the consumer industry for restoring service connection as an interim measure and pass appropriate orders thereon in accordance with law.”

2. On that order, the Chairperson has addressed a letter to the appellant without hearing him and without passing any order in the said proceedings, since the said letter is signed by the Chairperson alone. It is not an order passed by the Forum. The CG No. 297/2010 has to be restored and pass an order afresh by hearing the appellant and that is the intention of the remanded order. A specific direction is also given in the remand order to consider the application of consumer industry for restoring the service connection subject to such conditions as the Forum deems fit and appropriate by considering the case of the appellant discussed by the Hon'ble High Court. The Forum ought to have considered whether the consumer all the dues to the State Finance Corporation. It is also represented that the consumer is agreeable to pay the monthly charges and other dues that would accrue on the account of the service connection. On these lines no observation is made by the Chairperson and simply rejected that second time benefit of sick industry cannot be given.

3. In the light of the above said observations this authority is remanding back the matter to the Forum once again to hear the petitioner and consider the grounds for

releasing the service connection and impose the conditions as the Forum deems fit and appropriate by restoring the original CG No. 297/2010 to its file. Examine the consumer whether he is willing to pay all the amounts due including minimum charges, etc., if he is prepared to pay the same, pass the order accordingly.

4. In the result, the matter is remanded back to the Forum to consider the application of the consumer industry for restoring the service connection subject to such conditions as the Forum deems fit and appropriate. Nothing is to be considered on the feasibility of sick industry benefits. This aspect need not be discussed in the order and verify the feasibility of giving the service connection and if the required conditions are prepared to be complied by the petitioner industry, consider the restoration of service connection, as that is the intention of the order of the Hon'ble High Court. The order has to be passed by the Forum i.e., by the Members and the Chairperson available on that day but not by addressing a letter to the party concerned. The original CG No. 297/2010 has to be restored to file and pass order accordingly. The applications submitted by the consumer are herewith enclosed to this order.

This order is corrected and signed on this day of 12th January 2012

VIDYUT OMBUDSMAN