

BEFORE THE CONSUMER GRIEVANCE REDRESAL FORUM
M.S.E.D.C.L.,NAGPUR ZONE-RURAL,NAGPUR

Application / Case No. CGRF/NZ/Rural/ 11 of 2005

Applicant : M/S Mrudula chemicals, Ashirwad , Power House
Road, Ramnagar, Gondia. Pin 441614

Non-applicants : 1. Executive Engineer/Nodal Officer,
Internal Grievance Redressal Unit,
Circle Office, Bhandara.
2. Executive Engineer, CCO&M Dn.,
MSEDCL, Gondia

Quorum : 1.Shri N.J.Ramteke, Chairman.
2.Shri M.G.Deodhar,Member,

Appearance : 1.Shri Sudhir Rathod, Representative of Applicant.
2.Shri V.P.Yaul, Exe.Engineer/N.O., Circle Office,
M.S.E.D.C.L.,Bhandara.
3.Shri B.A.Hiwarkar,Dy.E.E.,MSEDCL,Gondia.
(Representatives of non-applicants.)

ORDER

(Passed this 28th Day of October,2005)

(Per Shri N.J.Ramteke,CHAIRMAN)

Shri H.B. Rathod,, Proprietor, M/s Mradula Chemicals, Gondia – Applicant submitted an application in Schedule “A” to the Forum on 22-9-2005 for redressal of the grievance as mentioned in the application. Applicant nominated Shri Sudhir Rathod as Representative in the present proceedings. On receipt of this application an acknowledgement as required under Regulation 6.6 of the M.E.R.C.(CGRF&O) Regulations, 2003 (herein after called the Regulations) is given to Applicant. The copy of the application alongwith the enclosed papers were sent to the Nodal Officer and Executive Engineer (Non-applicants) as required under Regulation 6.7 of the Regulations. The Forum directed the Non-applicants to submit their parawise comments as per Regulation 6.8 of the Regulations. Notices were given to both the parties for hearing as required under Regulation 6.9 of the Regulations.

The Non-applicants submitted their parawise comments to the Forum under the letter dated 17-10-2005 (Record Page 15-16) alongwith the Xerox copies of the documents. The copy of the parawise comments was sent to the Applicant alongwith copies of documents and the notice of hearing. The Forum also issued and served notices to the Non-applicants for hearing. The Forum heard both the parties on 27-10-2005. At the time of hearing, Applicant submitted a written note of his submissions. The copy of the same is given to the Non-applicants. The Non-applicants also submitted a statement (Record Page 35) at the time of hearing. Thus a fair and reasonable opportunity of hearing is given to both the parties as required under principle of natural justice.

The main contention of Applicant is that the D.L. levied in energy bill power factor penalty at the rate of 10% pro-rata average monthly bill instead of 1% on graded basis from 16-8-2002 to 14-9-2004. He lodged a complaint to the Superintending Engineer, MSEDCL, Bhandara on 28-9-2004 and the reminder dated 3-11-2004. A partial credit of Rs. 3222.98

is given in the monthly bill of January, 2005 as per directives of MERC, Mumbai.. Applicant sought the relief that the D.L. be directed to refund the balance excess power factor penalty of Rs. 2406.53 alongwith the 18% interest. Applicant also requested for payment of damages of Rs.2500/- towards cost and Rs.2000/- for mental harassment and torture. Applicant also submitted the list of documents enclosed with his application.

The main contention of Non-applicants is that the power factor penalty will be levied only if the power factor recording instrument is available and in case of consumers who have instrument (meters) to measure the power factor. The power factor penalty shall be whenever the average power factor is less than 90% penal charges shall be levied at the rate of 2% of the amount of the monthly energy bill Ntfor first 1% fall in the power factor below 90%, beyond which the penal charges will be levied at the rate of 18% for each percent point fall in the power factor below 89%. This is based as per the instructions of the M.E.R.C. towards tariff revision w.e.f. 1-12-2003. The Non-applicants also clarified in their parawise comments (Record Page 15) that the provisions as above have been referred back to the Hon'ble Commission for re-consideration and decision of the Commission is awaited. In the mean-time the provisions as above should be followed in respect of such consumers who have been provided with the instrument (Meter) to measure the power factor and in respect of other consumers the existing provisions are applicable. The Non-applicants further contended that whenever any low tension consumer having metered supply, is not installed the power factor connection equipment i.e. L.T. capacitor of adequate size, he will be penalized at the rate of 10% of his pro-rata/assessed monthly bill. A credit is given to the applicant w.e.f. January, 2005 is correct. The credit of Rs. 3222.98 is given in the bill of January, 2005 as per directives of MERC whatever the credit has been given is correct which was applicable from 1-1-2004 to Sept., ,2004. The Non-applicants opposed the relief regarding damages as demanded by the Applicant.

The facts in brief are that Applicant is Industrial Power Consumer of 40 H.P. with Consumer No.432870000640 (Old No.IP-67-MIDC, Gondia) . Applicant addressed a letter dt. 28-9-2004 to Superintending Engineer, MSEDCL, Bhandara, protesting against the power factor penalty at the rate of 10% pro-rata average in the monthly bill. He also gave a reminder on 30-11-2004. As per directives of MERC a credit of Rs. 3222.98 was given to Applicant.

On perusal of the record and hearing both the parties, the Forum come to the conclusion as under:-

As per the Statement enclosed by the Applicant, showing power factor penalty (Record Page 6), the excess amount of power factor penalty is liable for refund is Rs.5629.51. However, a credit of Rs. 3222.98 is already given by the Non-applicants for the period January, 2004 to September, 2004. Thus the question of remaining amount of Rs. 2406.53 remains for settlement. At the time of hearing , the Forum noticed that the representative of Applicant (Shri Rathod) was convinced that the power factor penalty was levied by the D.L. as per the standing instructions of MERC. Thus the question of refund of Rs.2406.53 does not arise.

Shri Yaul, Executive Engineer (NA) admitted that the excess power factor penalty for the month 12-12-2002 at Rs.866.05 is wrongly levied against the Applicant. He admitted that this amount requires to be refunded or adjusted in the subsequent bill. The Non-applicants in their statement showing power factor penalty etc. (Record Page 35) have shown a difference as Rs. 343.30 for the period August, 2002 to December, 2002 to be recovered from Applicant. This amount pertains to the period August, 2002 to December,

2002. No bills were given to Applicant demanding Rs. 343.30 during this period. In terms of the provisions as laid down under Section 56(2) of the Electricity Act, 2003, the Non-applicants cannot raise the demand of this amount as the period of two years is already over from December , 2004. Thus in October, 2005 this demand of Rs.343.30 cannot be recovered from Applicant. It has been specifically laid down under above Sub-Section, "Notwithstanding anything contained in any other law for the time being in force, no sum due from any consumer under this Section shall be recoverable after the period of two years from the date when such sum became first due unless such sum has been shown continuously as recoverable as arrears of charges for electricity supplied and the licensee shall not cut off the supply of the electricity". Non-applicants cannot issue any bill demanding Rs. 343.30.

The D.L. issued the instructions about low tension tariff applicable w.e.f. 1-12-2003 in the Booklet. The relevant provisions in this Booklet were brought to the notice of Shri Rathod. ,As per these instructions, the D.L. has no option but levy the penalty . As per these instructions the claim of Applicant for refund of Rs.2406.53 does not stand and, therefore, the Forum rejected the same.

The Forum also do not find any substance in the demand of damages and cost of the case Rs.2500/- and Rs.2000/-. The Forum do not agree with the demand of interest at 18% on the principle amount of Rs..5629.51 as there is no provision for awarding such rate of interest. In the written note of submissions, Applicant wants interest at 18% over the payment delayed by more than six months. In view of the analogy applicable to the D.L. as per tariff Booklet about levy of interest at 18%. The Forum is of the opinion that the instructions have been issued by the D.L. about the interest. On the other hand, there are no instructions or guidelines for payment of interest at 18% to the consumer. The Forum find no opportunity to award the damages and interest. As per the cost of the case is concerned , some consideration can be given to Applicant as he was in continuous correspondance on this issue with the Officers of the D.L.

In view of above position and circumstances, the Forum pass the following Order.

ORDER

- (1) Application is partly allowed.
- (2) An amount of Rs.866.05 to be adjusted in the subsequent bill of Applicant.
- (3) The claim of Rs.343.30 of Non-applicants is rejected.
- (4) A cost of case Rs.500/- is saddled on Non-applicants to be paid to Applicant within one month from the receipt of this Order.

CHAIRMAN
CONSUMER GRIEVANCE REDRESSAL FORUM
M.S.E.D.C.L (NAGPUR ZONE-RURAL), NAGPUR

MEMBER

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