

CONSUMERS GRIEVANCES REDRESSAL FORUM AT KASUMPTI, SHIMLA-09
No. CGRF/Complaint No. 1515/3/22/21

Complaint No.: - 1515/3/22/21

Date of Admission: - 14.07.2022

Quorum: - Er. Tushar Gupta, Chairman
Er. Vikas Gupta, Member

In ref:-

M/s H.M Steel Village Kheri,
Trilokput Road Kala Amb,
Tehsil Nahan Distt. Sirmour (HP).

Complainant

V/s.

HPSEBL & Others.

Respondents

1. The Executive Director (Pers.),
HPSEBL, Vidyut Bhawan,
Shimla-171004.
2. The Sr. Executive Engineer,
Electrical Division HPSEBL,
Nahan Tehsil Nahan Distt Sirmour HP
3. The Assistant Executive Engineer,
Electrical Sub-Division HPSEBL,
Kala Amb, Tehsil Nahan Distt. Sirmour (HP).

Respondents

Final hearing:-

31.01.2023

Present for:-

Complainant

1. Sh. O.C. Sharma, Advocate.

Respondent

1. Sh. Anil Kumar, God, Advocate
2. Er. Yogesh Kumar, A.E. Kala Amb

Date of Decision: -

15.02.2023

ORDER

BRIEF FACTS OF THE CASE –

- (1) Complaint has been filed under regulation 17 of the HPERC (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013. The Complainant is an existing consumer of the Respondent HPSEBL by the name HM Steels Ltd situated at Village Kheri, Trilokpur Road, Kala Amb, Tehsil Nahan, District Sirmaur, bearing Consumer ID 100012002352, categorized under the 'Large Industrial Power Supply' consumer category;
- (2) An earlier complaint bearing No 1515/04/21/22 had also been filed by the Complainant in the year 2021, which was Dismissed by the Forum vide Order passed on 29.07.2022. This earlier complaint was in terms of challenge by the Complainant to Demand Notice dated 14.10.2021, issued by the Respondent HPSEBL to the Complainant, for payment towards short recovery by the Respondent HPSEBL in respect of Bills for the months of January 2019 to June 2021;

COMPLAINANT & RESPONDENT –

- (3) In the instant complaint, challenge has now been laid to the correctness of the ibid Bills of January 2019 to July 2019, whereby the Complainant has stated that in the said Bills that excess amount of Rs 76,22,567/= was charged, which stand paid to the Respondent;
- (4) Complainant has submitted that in a meeting held on 17.06.2022 with Respondent No 2 with regard to erroneous and wrong billing qua the excess amount charged, the Respondent could not satisfactorily explain to the Complainant. The Complainant has sought refund of the ibid excess amount stated to have been charged by the Respondent HPSEBL;

- (5) On the other hand the Respondent HPSEBL has replied that the instant complaint is an after-thought and totally an abuse of process of law and that it is liable to be dismissed in terms of regulation 19(a) of the HPERC (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 in pursuance to earlier decision of the Forum dated 29.07.2022 in complaint bearing No 1515/04/21/22, on the same issues as in instant complaint;
- (6) The Respondent in its Reply has further submitted a table depicting the break-up of the details of the ibid Bills from January 2019 to July 2019, while stating that these Bills are in accordance with the Tariff Orders and that the mis-match is due to non-reflection of Peak Load Demand Charges (PLDC) of Tariff Orders in the Bill format but which is included in the total amount of the respective bills and that this fact was explained to the Complainant in the meeting held on 17.06.2022 and the Minutes of which the Complainant refused to sign;

FORUM

- (7) At the outset, this Forum finds that the Complainant is agitating the Bills for the months of January 2019 to July 2019 raised by the Respondent HPSEBL, which were in-fact a part of the impugned Demand raised by the Respondent HPSEBL on 14.10.2021 and clearly formed the basis of the earlier complaint filed by the same Complainant bearing No 1515/04/21/22 and decided by the Forum on 29.07.2022;
- (8) This Forum further finds that the issue raised in the instant complaint, was well in the knowledge of the Complainant at the time of the ongoing of the earlier complaint decided on 29.07.2022. This is evident from the meeting held on 17.06.2022 between the parties herein and this fact is acknowledged by both parties;

- (9) The Forum further observes that in its Reply, the Respondent has clearly depicted the break-up in tabulated form of the statutory charges recovered from the Complainant. The total amount therein is the same as that raised in the bills from January 2019 to July 2019 and includes the item of Peak Load Demand Charges (PLDC) but which is not reflected in the bill format as a separate item;
- (10) During the Argument / final hearing stage, the Complainant agreed that a statutory charge was claimable by the Respondent HPSEBL as depicted in the tabulated details contained in the Reply submitted by the Respondent;
- (11) The Forum is also of the view that nothing perceivably could have stopped the Complainant from ascertaining by self, the fact from the Tariff Orders of the Ld HP Electricity Regulatory Commission which are in public domain, that a Peak Load Demand Charges (PLDC) is also chargeable by the Respondent and payable by the Complainant;
- (12) The Forum is convinced that a statutory charge of the nature of Peak Load Demand Charges (PLDC) was recovered by the Respondent HPSEBL, and therefore no Refund in any form is made out in favor of the Complainant;
- (13) In view of foregoing, the Forum holds that the absence of a statutory item in a bill format, if recoverable under the statute, does not preclude its recovery by way of the bill nor does it preclude its recovery at a later stage as arrears of dues, even if inadvertently left out in a bill format as a separate item, for the simple reason that the recovery is permissible under the law;
- (14) Further, in view of the meeting held on 17.06.2022 between the parties, which took place during the concurrency of the previous complaint, the Forum finds the instant complaint to be vexatious for the sole reason that the issue raised in the instant complaint, was well within the knowledge and understanding of the Complainant that a statutory charge had been claimed by the Respondent

HPSEBL in the Bills of January 2019 to July 2019 while the Complainant chose to remain dissatisfied. The matter could have easily been put to rest after the decision of the Forum dated 29.07.2022, rather than unnecessarily agitate it once again before the Forum;

- (15) Further, the Forum is convinced that the claim here-in is not founded on a new cause of action and is inclined to agree with the Respondent HPSEBL that the Complainant has misused the process of law by filing the present complaint;
- (16) On foregoing terms, the Forum holds that there is estoppel upon the Complainant to raise a dispute on the same cause of action / same issue forming part of the complaint decided by the Forum on 29.07.2022. It was incumbent upon the Complainant to include all claims and seek remedy, including the ones raised in this instant complaint, at once in the previous complaint decided on 29.07.2022;
- (17) In terms of sub-regulation 19(a) of the HPERC (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013, the Forum in unambiguous term, also holds that the complaint is not maintainable for the reason that the cause of action raised in the instant complaint has already been decided by the Forum on 29.07.2022 in complaint No 1515/04/21/22 against the same Complainant M/s HM Steel Ltd and a final Order passed;

On aforesaid terms, without going into the merits of the instant complaint filed by M/s HM Steels Ltd, the complaint is Rejected.

The complaint is decided on merits, in favor of the Respondents HPSEBL and against the Complainant.

Parties are left to bear their own costs.

Order reserved on 31.01.2023, is released today on 15.02.2023 in open Forum at Shimla, before the parties present.

Certified copies of this Order be supplied to the parties.

The original case file be consigned to record room along with this Order, for safe custody.

Place:-Shimla

Dated:-15.02.2023

-Sd-

(Vikas Gupta)

(Member)

-Sd-

(Tushar Gupta)

(Chairman)

Notice

CONSUMERS GRIEVANCES REDRESSAL FORUM AT KASUMPTI SHIMLA-171009.

No.CGRF/Complaint No. 1515/3/22/21

Dated:-

Registered

M/s H.M Steel Village Kheri,
Trilokput Road Kala Amb,
Tehsil Nahan Distt. Sirmour (HP).

Complainant

V/s.

HPSEBL & Others.

Respondents

Complaint No. 1515/3/22/21

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Electrical Sub-Division HPSEBL,
Kala Amb, Tehsil Nahan Distt. Sirmour (HP).

Respondents

The Certified copy of final order dated 15.02.2023 passed by the Hon'ble Forum in the aforesaid complaint is enclosed find herewith for further necessary action at your end please. The compliance be reported/intimated within one month after the receipt of order in the office.

DA:-As above.

Secretary,
Consumers Grievances Redressal Forum,
HPSEBL, Kasumpti Shimla-171009.