
(1999) 07 AP CK 0010

In the Andhra Pradesh High Court

Case No : Writ Petition No. 17403 of 1998

Venkateshwara Foods and Feeds, Thimmapur

APPELLANT

Vs

Divisional Engineer, Electrical, Operations, A.P.S.E.B.,
Jedcherla and others

RESPONDENT

Date of Decision : 15-07-1999

Acts Referred:

Electricity (Supply) Act, 1948 — Section 49

Citation : (1999) 4 ALD 408 : (1999) 2 AnWR 177

Hon'ble Judges : E. Dharma Rao, J

Bench : Single Bench

Advocate : Mr. G. Vidyasagar, for the Appellant; Mr. J. Siddaiah, SC for APSEB, for the Respondent

Judgement

1. This writ petition is directed against the order of the first respondent in his letter No.DEE/OP/JDL/AAE-CL/F.Dkt/ D.No.728 dated 6-6-1998 demanding a sum of Rs.3,68,587.05 ps. towards H.T. Charges from February, 1990 to December, 1996, as illegal and arbitrary.

2. The brief facts of the case are that the petitioner is a firm engaged in manufacture of poultry feed and its factory is situated in Timmapur village. It is stated that the petitioner firm is having two service connections i.e., SC No.300 and 302 of 50 HP each for the purpose of industrial use. One such service connection is meant for the factory and the other for laboratory. It is further stated that keeping in view the expansion of the factory, on 20-12-1995 an application was made for H.T. supply instead of L.T. supply to the petitioner firm. In pursuance of the application, the Divisional Engineer, Electrical, the first respondent herein addressed a letter No.DEE/ OP/JDL/AAE/CL/HT/VF&F/ D.NO.2774 dated 7-9-1996, that the petitioners application was considered and the petitioner firm was required to comply with the following conditions for taking necessary action :

(1) To pay a sum of Rs.3,59,300/- towards service line charges.

- (2) To pay a sum of Rs.2,99,400/- towards security deposit.
- (3) To enter H.T. agreement with APSEB on four copies of stamped paper.
- (4) Produce the power of attorney of the person authorised to sign H.T. agreement.

It is further stated by the petitioner that at the time of receipt of sanction order, the firm was in financial crises and the expansion programme has been dropped and the same was communicated to the authorities concerned and subsequently, the Assistant Divisional Engineer, Operations, APSEB vide his letter No.ADF/OP/SDNR/D.No.563/96, dated 15-11-1996 informed the petitioner to pay a sum of Rs.3,59,300/- towards the service line and development charges together with security deposit of Rs.2,99,400/-, otherwise the Board will limit L.T. load upto 74.00 HP. After receipt of the above said letter from the Assistant Divisional Engineer (Operations), the petitioner through the letter dated 15-11-1996 requested him for sanction of load of 50 HP to 74 HP on SC No.300. The petitioner further submitted that the SC No.302 was utilised for the Laboratory and consequent upon the shifting of Laboratory, the service line was also shifted to another place. Thereafter, an application was also made to reduce the supply from 50 HP to 35 HP, through its letter dated 5-12-1996. Accordingly, proposals have been made by the respondent authorities on 31-12-1996 for sanction of L.T. load to 74 HP on SC No.300 and reduction of L.T. load from 50 HP to 35 HP on SC No.302. The petitioner further stated that on payment of requisite charges of Rs.36,000/- on 10-1-1997 the L.T. load was increased to 74 HP and the approval also was accorded for service line 302 to reduce it to 35 HP with effect from January, 1997. The petitioner contended that though the application was made for conversion of L.T. line into H.T. line, due to financial crunch. the idea of expansion was dropped and further modifications have been accepted, approved and necessary alterations have been effected in the service connections. But the Divisional Engineer, Electrical, has issued the impugned letter stating that the firm is liable for payment of shifting charges and maximum demand charges after conversion into H.T. service for the period from February, 1990 to December, 1996 amounting to Rs.3,60,587/- and requested to arrange for payment of the same within fifteen days from the date of receipt of the letter. Therefore, the petitioner contends that the letter issued by the respondents is illegal. Based on the above stated facts, it is submitted by the learned Counsel for the petitioner that as per the application dated 20-12-1995 though conversion of H.T. line on payment of service charges and security deposits amounting to Rs.6,58,700/- was approved, but the petitioner was not able to pay the above said amount due to financial crises and as per the direction of the Assistant Divisional Engineer dated 15-11-1996, the service connections have been restricted to 74 HP and the said proposals were accepted through the letter dated 7-1-1997. Therefore, the demand of Rs.3,60,587/- through the impugned proceedings dated 6-6-1998 for the period from February, 1990 to December, 1996 is illegal, arbitrary and contrary to the law and the petitioner is not liable to

pay the same, and therefore prayed to declare the above said proceedings as illegal and consequently set aside the same.

3. In reply to the contentions raised by the petitioner, the Divisional Engineer, Operations, Jedcherla, has filed counter-affidavit, contradicting the averments and contentions raised by the petitioner. The respondent has stated in his affidavit that the petitioner is a firm M/s. Venkaleswara Foods and Feeds, and it was connected with two service connections and when the connected load of one or more service connections of the same consumer in the same premises exceeds 75 HP the total load of service should be converted to HT category and if they are not converted to HT category, the existing LT services should be billed with HT category rates till the load or the LT Services are converted to HT by the consumer or upto the date of sanctioning of duration of the load of the LT services to below 75 HP. He further stated that in the present case, the SC No.300 and 302 of the petitioner were released on 17-1-1990 and on 2-2-1990 respectively with L.T. Industrial category i.e., Category-III with a connected load of 50 HP each and both the connections belong to one and the same consumer and they are situated in the same premises and are used for the same purpose. The connected load of both the service put together is 100 HP which is above 75 HP and hence as per the Board Rules, when the load of same consumer in same premises exceeds 75 HP it should be converted to HT service. Though the petitioner was given sufficient time to convert the LT service into HT service, he has not chosen to do so. Therefore, the Board is entitled to bill the LT load as HT category taking into consideration the total connected LT load.

4. In the present case, the consumer applied for duration of SC No.302 from 50 HP to 35 HP and additional load for SC No.300 from 50 HP to 74 HP and permission to shift the SC No.302 to another location on 23-11-1996. Accordingly, the additional load of 24 HP on SC No.300 was sanctioned making it to 74 HP, The duration of SC No.302 from 50 HP to 35 HP was also sanctioned with the permission to shift it to another location. This duration and shifting of SC No.302 came into effect from January, 1997 onwards and as such the SC No.300 and 302 were having connected loads of 100 HP from February, 1990 to December, 1996. As per the terms and conditions of the Board, these two services should have been billed under HT category from February, 1990 to December, 1996. He further stated in the affidavit that during 1990, the Board has given instructions to the concerned Superintending Engineers to convert eleven specific Industrial Services released under L.T. Industrial Category i.e., Category-III To HT category which were spread over the jurisdiction of EROs. of East and West Visakhapatnam, Suryapet, Jadcherla and Pileru due to exceeding connected load over and above 75 HP and the petitioner firm is one among the eleven specified industrial services and the same method which is adopted in the case of the petitioner was also adopted for the remaining ten industrial connections as per the terms and conditions of supply of* Electricity to the Industrial services. Therefore, accordingly, the bill was prepared from February, 1990 to December, 1996 and the petitioner is liable to pay the demanded

amount of Rs.3,60,587.05 ps. and the impugned order passed by the respondents is valid and proper and as per rules and regulations of the Board.

5. After hearing the arguments of the learned Counsel for the respondents and the petitioner, I agree with the stand taken by the respondent that the petitioner has utilised the service connections 300 and 302 for the same purpose within the same premises and the total consumption of LT load is 100 IIP and the petitioner, who is well aware of the Rules and Regulations of the Board, though he was directed to get the LT connection converted into HT connection from February, 1990 onwards, has not taken any steps. But for the first time on 20-12-1995 he made an application for supply of HT load instead of LT load to his firm. It is submitted by the petitioner that due to financial crises, he has not deposited the amount specified by the Board for development charges, towards service line and security deposit. Therefore, the department has not connected the HT line, though he made the application on 20-12-1995. As it is evident from the record that for the time the Board has given its approval and sanctioned for conversion of LT into HT load, after the petitioner makes payment. Though the petitioner has stated that he has shifted the Laboratory from the premises where the factory is situated, he has not given the particulars where it was shifted. Therefore, viewing from any angle," as already stated by the respondent, they have adopted the same method towards the other ten industrial connections.

6. As per para 40.3(ii) of the Terms and Conditions of supply of electricity, though the load was released as LT category, if two meters are situated in the same premises and for the same purpose and if the supply is more than 100 HP on LT load, the Board is entitled to bill it as HT category. Therefore, I am satisfied that the action initiated by the respondents is legal and proper and in accordance with the Rules and Regulations of the Board.

7. A request is made by the petitioner at the end of the arguments to grant sometime for the payment of demanded amount of Rs.3,60,587.05 ps. by way of bi-monthly instalments. I am not inclined to grant bi-monthly instalments, as requested by the petitioner. However, taking the facts and circumstances of the case, I direct the petitioner to pay the same amount in three equal monthly instalments the first being on or before 31-7-1999. After payment of the said amount as directed by this Court, the petitioner is entitled to make a representation for verification of the records and on filing such representation by the petitioner the respondents are directed to pass appropriate orders on his representation after payment of third instalment.

8. With the above directions, the writ petition is disposed of. But in the circumstances without costs.