



Before the Appellate Board
National Electric Power Regulatory Authority
(NEPRA)
Islamic Republic of Pakistan

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No. NEPRA/AB/Appeal-086/POI-2016/ 288-292

March 02, 2017

1. Bashir Ahmed,
S/o Ghulam Muhammad,
(Through Abdul Ghaffar),
S/o Muhammad Abraham,
Prop: Stoner Crusher, Chak No. 13/5B,
Pull-II, Sargodha
2. Chief Executive Officer
FESCO Ltd,
West Canal Road, Abdullahpur,
Faisalabad
3. Mehar Shahid Mahmood,
Advocate High Court,
Office No. 25, 3rd Floor,
Ali Plaza, 3-Mozang Road,
Lahore
4. Sub Divisional Officer,
FESCO Ltd,
Tariq Abad Sub Division,
Sargodha
5. Electric Inspector
Energy Department, Govt. of Punjab,
Opposite Commissioner Office,
D.C.G Road, Civil Lines,
Faisalabad Region, Faisalabad

Subject: **Appeal Titled FESCO Vs. Bashir Ahmed Against the Decision Dated 15.02.2015 of the Electric Inspector/POI to Government of the Punjab Faisalabad Region, Faisalabad**

Please find enclosed herewith the Decision of the Appellate Board dated 02.03.2017, regarding the subject matter, for information and necessary action accordingly.

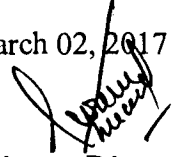
Encl: As Above

No. NEPRA/AB/Appeal-086/POI-2016/ 293

Forwarded for information please.

(Ikram Shakeel)

March 02, 2017


Assistant Director
Appellate Board

1. Registrar
2. Director (CAD)

CC:

1. Member (CA)



National Electric Power Regulatory Authority

Before Appellate Board

In the matter of

Appeal No. NEPRA/Appeal-086/POI-2016

Faisalabad Electric Supply Company LimitedAppellant

Versus

Bashir Ahmed, S/o Ghulam Muhammad,
Prop: Karwan Stone Crusher, Chak No. 13/5B,
Pull-II, SargodhaRespondent

For the appellant:

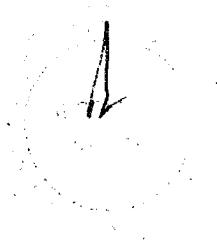
Mehar Shahid Mehmood Advocate

For the respondent:

Nemo

DECISION

1. As per facts of the case the respondent had filed a complaint before Wafaqi Mohtasib with the allegations that his energy meter became defective in July 2013 and in the same month, he was served a detection bill amounting to Rs. 43,739/-. The electricity meter was replaced but again in August 2013, he was issued monthly bill of Rs. 21,886/- as well as the detection bill of Rs. 315,747/-. It was also alleged in the complaint that if the meters were found defective then the FESCO was under legal obligation to replace it immediately.





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2. On 24.06.2014, the matter was referred by the Wafaqi Mohtasib to the Provincial office of Inspection for checking the meter and premises and for submission of a report by 09.07.2014.
3. The record is silent as to submission of any report to the Wafaqi Mohtasib by the Provincial Office of Inspection or any decision by the Wafaqi Mohtasib; however, it seems that on 30.03.2015, the respondent filed an application before the Provincial Office of Inspection while challenging the detection bills of Rs. 315,747/- and 28,990/-. Said application was decided ex-parte by the Provincial Office of Inspection on 15.02.2015 whereby both the detections bills were declared null and void.
4. The appellant filed an application for setting aside the ex-parte decision before the Provincial Office of Inspection on 21.03.2016 but said application was also rejected on 22.03.2016. Hence this appeal has been filed against the ex-parte decision of POI dated 15.02.2015 as well as the decision dated 22.03.2016 of POI; inter-alia on the grounds that the case was not decided on merits rather ex-parte decision was taken without appreciating the actual facts on record. It is also pleaded that as per rulings of superior courts, the cases are to be decided on merits instead on technical grounds. Reliance in that regard is placed on PLJ 2010-Pesh-1 DB, PLD 1976-Kar-1098 and 2004 MLD-159.
5. Notice of the appeal was issued to the respondent for filing reply/parawise

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comments, which were however not filed. Despite notices, the respondent failed to file reply/parawise comments and plead his case before the Appellate Board. Hearing of the appeal was conducted in the provincial office NEPRA Lahore on 10.02.2017 in which Mehar Shahid Mahmood Advocate entered the appearance for the appellant FESCO and no one appeared for the respondent. Learned counsel for the appellant FESCO reiterated the same arguments as described in memo of the appeal and contended that both the impugned decisions were pronounced without hearing FESCO and without consideration of the record available before POI. He pleaded that FESCO had a good arguable case on merits and expected to succeed if their relevant record and their stance was taken into consideration. According to learned counsel for FESCO both the impugned decisions are bad in law, against the fact of the case and FESCO would suffer irreparable loss if not set aside. He argued that no notices of POI were received by FESCO and as such non appearance was not deliberate and intentional. It is prayed by FESCO that the case be remanded back to POI for deciding on merits after hearing both the parties.

6. There is absolutely no rebuttal as to the arguments of appellant and it is always desirable for decision of cases on merits. Since the impugned decisions have been passed without considering the facts; therefore, the same are set aside and the matter is remanded back to the POI for deciding the case on merits after providing fair opportunity of hearing to the parties. The appellant is directed to appear before the Provincial office of Inspection on 15.03.2017 at 9.00 A.M. In case of failure of the



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appellant to appear before the POI on the date fixed, the POI may decide the matter on the basis of available record.

Muhammad Qamar-uz-Zaman
Member

Nadir Ali Khoso
Convener

Muhammad Shafique
Member

Dated: 02.03.2017