



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

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No. NEPRA/Appeal/085/2023/ *103*

December 06, 2024

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|---|--|
| 1. Rai Ahmed Khan,
S/o. Rai Nasir Ali,
R/o. Village Pakkay Bhattian,
Post Office, Pindi Bhattian,
Tehsil Pindi Bhattian, District Hafizabad | 2. Chief Executive Officer,
GEPCO Ltd, 565-A,
Model Town, G. T. Road,
Gujranwala |
| 3. Zafar Iqbal Asad,
Advocate High Court,
Chamber No. 19-A, Judicial Complex,
Jinnah Block, Hafizabad
Cell No. 0343-6576720 | 4. Sub Divisional Officer,
GEPCO Ltd,
Pindi Bhattian Sub Division,
District Hafizabad |
| 5. POI/Electric Inspector,
Gujranwala Region,
Energy Department, Govt. of Punjab,
Munir Chowk, Near Kacheri Road,
Gujranwala | |

Subject: **Appeal No.085/2023 (Rai Ahmed Khan Vs. GEPCO) Against the Decision Dated 07.06.2023 of the Provincial Office of Inspection to Government of the Punjab Gujranwala Region, Gujranwala**

Please find enclosed herewith the decision of the Appellate Board dated 06.12.2024 (04 pages), regarding the subject matter, for information and necessary action, accordingly.

Encl: As Above


(Ikram Shakeel)
Deputy Director
Appellate Board

Forwarded for information please.

1. Director (IT) –for uploading the decision of the Appellate Board on the NEPRA website



National Electric Power Regulatory Authority

Before The Appellate Board

In the matter of

Appeal No.085/POI-2023

Rai Ahmed Khan S/o. Rai Nasir Ali,
R/o. Village Pakkay Bhattian, Post Office,
Pindi Bhattian, District Hafizabad

.....Appellant

Versus

Gujranwala Electric Power Company Limited

.....Respondent

APPEAL U/S 38(3) OF REGULATION OF GENERATION, TRANSMISSION, AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997

For the Appellant:

Mr. Zafar Iqbal Asad Advocate

For the Respondent:

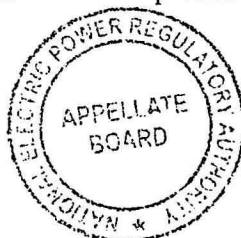
Mr. Zulfiqar Ali Bhatti Commercial Assistant

DECISION

1. Brief facts leading to the filing of instant appeal are that Rai Ahmed Khan (hereinafter referred to as the "Appellant") is an agricultural consumer of Gujranwala Electric Power Company Limited (hereinafter referred to as the "Respondent") bearing Ref. No.29-12252-1468500 with a sanctioned load of 11 kW and the applicable Tariff category is D-2(b). The impugned meter of the Respondent became defective, hence it was replaced with a new meter by the Appellant vide MCO dated 22.05.2019. Subsequently, a detection bill of 4,028 units was charged to the Respondent.
2. Being aggrieved, the Appellant initially challenged the above detection bill before the Civil Court, Pindi Bhatian on 10.02.2021. Subsequently, the honorable Civil Court vide order dated 23.06.2021 dismissed the civil suit due to non-prosecution. Later on, the Respondent filed another civil suit before the Civil Court Pindi Bhatian on 19.07.2021 and assailed the arrears of Rs.285,429/-, which was also dismissed by the honorable Civil Court vide order dated 09.10.2021 due to non-prosecution. Meanwhile, the Appellant approached the Provincial Office of Inspection Gujranwala Region, Gujranwala

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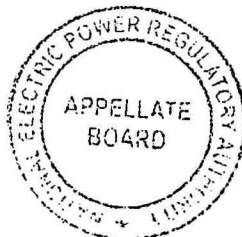
(hereinafter referred to as the "POI") on 17.08.2021 and assailed the arrears of Rs.384,552/- accumulated till July 2021. The POI vide decision dated 07.06.2023 dismissed the complaint of the Appellant with the following conclusion:

"I have thrashed out the record minutely. It is evident that the petitioner filed the last civil suit in the honorable Civil Court on 10-02-2021 which was dismissed on 23-06-2021 due to non-prosecution and the petitioner keeping this fact concealed filed the 2nd Civil Suit on 19-07-2021 which was also dismissed on 09-10-2021 due to non-prosecution. These facts reveal that the petitioner itself opted course of civil procedure twice and after dismissal of 2nd civil suit the petitioner should have adopted further procedure of restoration of the suit or file an appeal as the case may be, under civil law and if its conclusion comes as filing the instant petition with specific direction then he may approach this forum which he did not. In the circumstances, the instant petition is not proceedable and dismissed. However, the petitioner is at liberty to seek further direction from competent court of law in this behalf."

3. Subject appeal has been filed against the afore-referred decision dated 07.06.2023 of the POI (hereinafter referred to as the "impugned decision") by the Appellant before the NEPRA, wherein it is contended that the Respondent debited the impugned bill on account of a defective meter, which was initially challenged before the Civil Court. The Appellant further contended that after revealing that the honorable Civil Court has no jurisdiction in the instant matter, a complaint was filed before the POI u/s 38 of the NEPRA Act against the impugned bills. As per Appellant, the honorable Supreme Court of Pakistan held that where a suit was filed by the plaintiff in a court of law having no jurisdiction to entertain the same or had lost jurisdiction at any stage then that court returned the plaint so that it may be presented in the court in which suit should have been instituted, the decision given by the court would be nullity in the eyes of law, according to the judgment of the apex court reported in 1995 MLD 1563. According to the Appellant, the Civil Court is responsible to decide the question of jurisdiction at the initial stage of the proceeding, such question is to be considered by the Court of law even though not raised by any party's principle of estoppel. The Appellant submitted that the POI is duty bound to decide the matter within 60 days, who failed to do so. The Appellant further submitted that the honorable Supreme Court of Pakistan in the judgment reported in 1988 SCMR 1570 held that no arguments can be entertained on the point which was not raised in the written reply specifically. The Appellant finally prayed for setting aside the impugned decision.

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4. Proceedings by the Appellate Board

Upon filing of the instant appeal, a Notice dated 25.09.2023 was sent to the Respondent for filing reply/para-wise comments to the appeal within ten (10) days, which however were not filed.

5. Hearing

5.1 The hearing was fixed for 02.11.2024 at NEPRA Regional Office Lahore, wherein both parties were in attendance. Learned counsel for the Appellant reiterated the same version as contained in the memo of the appeal and contended that the detection bill of 4,028 units charged has no legal and valid basis and the same is liable to be withdrawn. Learned counsel for the Appellant further contended that the above detection bill was disputed before the Civil Court, which was subsequently dismissed by the honorable Civil Court due to lack of jurisdiction. As per learned counsel for the Appellant, the POI even did not consider the real aspects of the case and relied on the judgment of the Civil Court. Learned counsel for the Appellant finally prayed that the impugned decision is liable to be struck down.

5.2 On the contrary, the representative for the Respondent defended the charging of the impugned bill, supported the impugned decision, and prayed for upholding the same.

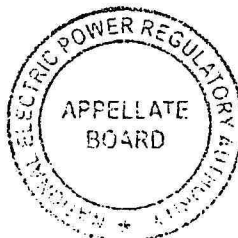
6. Arguments were heard and the record was perused. Following are our observations:

6.1 It is observed that the Respondent debited a detection bill of 4,028 to the Appellant which was initially assailed before the Civil Court Pindi Bhatian on 10.02.2021, which was dismissed on 23.06.2021 due to non-prosecution. Subsequently, the Appellant filed another civil suit before the Civil Court Pindi Bhatian on 19.07.2021, which was also dismissed due to non-prosecution vide order dated 09.10.2021. Meanwhile, the Appellant filed a complaint before the POI on 17.08.2021 and assailed the arrears of Rs.384,552/- till July 2021, which was dismissed by the said forum vide the impugned decision.

6.2 The Appellant had admittedly stated in the memo of the Appellant filed before the NEPRA that due to the wrong forum (for redressal of its grievance), his civil suit was dismissed. This whole scenario indicates that the POI is the competent forum to hear and decide the complaint of the Respondent regarding the billing dispute. However, the Appellant had opted for the wrong forum i.e. Civil Court twice through civil suits for his remedy which were later dismissed.

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6.3 The Appellant was required to approach the District Judge against the dismissal orders dated 23.06.2021 and 09.10.2021 of the Civil Court Pindi Bhatian, however, he remained silent and subsequently filed the complaint before the POI for the same cause of action. The dismissal orders dated 23.06.2021 and 09.10.2021 of the honorable Civil Court Pindi Bhatian have attained finality, as such the POI has rightly set aside the complaint of the Appellant.

7. Foregoing in view, the appeal is dismissed.

On leave
Abid Hussain
Member/Advisor (CAD)

Dated: 06-12-2024


Naveed Illahi Sheikh
Convener/DG (CAD)


Muhammad Irfan-ul-Haq
Member/ALA (Lic.)

