

BEFORE THE ELECTRICITY OMBUDSMAN  
for the State of Goa and Union Territories(Except Delhi)

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122016, Haryana.

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APPEAL No. 95/2017.

Date of Hearing: 28.11.2017 at Puducherry

The Observer ..... Appellant  
Door No.B-5,230/110 K.V. Villainur  
Auto Sub Station Quarters  
Villianur, Puducherry-605110.

Versus

The Superintending Engineer cum HoD .....Respondent  
Electricity Department,  
No.137, NSC Bose Salai,  
Puducherry-605 001.

Parties present:

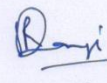
Appellant Mr. D. Arunsatheesh Kumar, General Secretary,  
The Observer Society,  
Respondents Mr. T. Gopalakrishnan, Superintending Engineer-O&M,  
Electricity Department, Puducherry.  
Mr. J. Antony Vivekanand, Assistant Engineer,  
Electricity Department, Puducherry.

Date of Order: 07.12.2017

The Appellant has preferred an Appeal against order of the Consumer Grievances Redressal Forum, Puducherry dated 14.06.2017 in consumer case No.29/2017.The Appeal admitted on 23.10.2017 as appeal No. 95 of 2017.

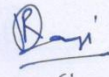
**(A) Submissions by the Appellant:**

1. We submit to state that the Electricity consumers of Puducherry UT are being facing lot of problems daily due to the very poor performances of Electricity

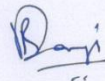


Distribution licensee in supplying and maintaining the Electricity to consumers. For that, we analyzed the reasons and randomly conducted and enquired with different level in Electricity administration, Engineers Association, Employees Unions, General public and etc. Finally, we came to know that "from last 10 years there was a huge level development took places in Puducherry UT and hence the Consumers strength were up normally increased in all categories and every day the Distribution licensee is getting increase in Consumers strength". But, the Electricity department, Puducherry has not created any additional posts (Engineers & Technical staff) from last 13 years and maintaining its establishment with existing staff strength at four regions of Puducherry, Karaikal, Mahe and Yanam, that too with large numbers of vacancies from last 2 years.

2. Further we submit to state that due to the availability large numbers of vacancies in both in Engineers and Technical field staff cadres in Puducherry Electricity Department, which is a deemed Distribution licensee under the Electricity Act,2003 for Puducherry UT, it is unable to maintain the supply systems in good condition and performance its duties according to the JERC (Supply code) Regulations,2010 and JERC ( Standard of Performances of Distribution Licensees) Regulations, 2015 covering four regions of Puducherry, Karaikal, Mahe and Yanam.
3. In this connection we submit to state that in order to get a smooth and good solution, we have filed a detailed petition in this regard before the CGRF on 9.5.2017 with a pray to treat our complaint as special case and to pass orders to the Distribution licensee to fill up all the existing vacancies at an early date so as to get better performance from the licensee atleast in future by considering the interest of all Consumers of four regions of Puducherry UT.

  
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4. The Hon'ble CGRF has admitted our Petition vide Consumer Case No.29/2017 and passed an order thereon on 19.7.2017. But, the CGRF has not considered our genuine pray and passed the orders to Distribution licensee to fill up the vacancies and to maintain to supply system in a good manner in Puducherry. It is simply passed an orders to the Licensee to maintain the performance and comply the Standard of Performance according to the JERC (SOP of Distribution licensee) Regulation 2015.
5. We submit to state that on the date of argument i.e. 4.7.2017 before the CGRF, we orally submitted all the problems met by the Consumers due to power failures and etc. besides, we pointed out the frequent strike conducted by the Engineers and Employees of Electricity department, Puducherry from last 2 years. Further, we pointed out the various Questions raised in the Puducherry Legislative Assembly by the Hon'ble MLA's in connection with the poor performances of Licensee and all the vacancies availability with the Licensee and the reply furnished by the Electricity Department. The Chairman and Member of CGRF were accepted the same. But, they orally informed us that they have no powers to pass orders to the Licensee to fill up the vacancies and hence we requested the CGRF to make a reference to the Hon'ble JERC before disposing our complaint. But the CGRF has not considered our oral arguments and submissions. Since we are not satisfied with the orders passed by the CGRF, we herewith filing this Appeal before your authority for lawful consideration treating this Appeal as a special case in the interest of Consumers of Puducherry UT.
6. We humbly submit to state that the Hon'ble Ombudsman will understand our nature of complaint and logicalness of without having sufficient men powers no one establishment can do best performances in its service to the

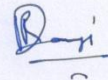


Consumers or to give best services to Consumers, the establishment should have full-fledged staff strength. Further, we feel that our complaint is genuine nature in public interest and it is a fit case of Appeal before the Ombudsman and covers the definitions of JERC Regulations.

7. We therefore humbly request your forum please consider our petition favourably and pass necessary orders to the Respondent to fill up all the vacancies immediately in the interest of Consumers.

**B. Submissions by the Respondent:**

1. The averments made in the Petition are denied in totality except for those that are specifically admitted hereunder.
2. The petition seeking suitable orders of the Hon'ble Electricity Ombudsman, to fill up all the vacancies in the Department immediately is bad in law and is without original jurisdiction for reasons stated below:
3. The Petitioner has neither made out any case of violation of the JERC (Standards of Performance for Distribution Licensees) Regulations, 2015 notified by the Joint Electricity Regulatory Commission for the State of Goa an Union Territory vide its notification dated 24.7.2015 or its amendments nor as it made out a case of any specific instance of deficiency of service.
4. The Petitioner has pointed out that there are vacancies and has assumed that such vacancies would lead to deficiency in service. This is only a presumption. No case has been reported to the undersigned by any of the consumers that could be attributed to shortage of manpower.
5. In any large organization, vacancies are bound to arise and it is the prerogative of the Employer, in this case, the Government of Puducherry, to fill up the vacancies, according to the needs and financial

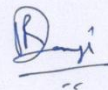


considerations that go into the decision making. Neither the Employee nor a third party has any right to seek filling up of the vacancies. The "Observer" is "neither the sole representative of the consumers.

6. Utmost care is being taken to ensure that NO posts of offices handling public complaints are kept vacant.
7. The Consumer Grievances Redressal Forum is a body created by the Distribution Licensee under the provisions of the Electricity Act 2003 to redress consumer grievances in case of deviations in the Standard of Performance set by the Commission. The Forum should not have entertained the petition at the first instant and hence the present petition before the Hon'ble Electricity Ombudsman is devoid of merit.

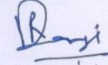
C. **Analysis & Decision:**

1. No specific case of any non compliance of any standards of performance from JERC (Standards of Performance for Distribution Licensees) Regulations, 2015 has been made out.
2. Further, no deficiency of service on part of Respondents has been shown.
3. The respondents have many technical/financial compulsions or needs. The respondents can have technical Upgradation plans which may need less manpower.
4. The respondent as an employer have a right to fill up all the posts or not to fill them up. In fact, it is a prerogative power vested in the respondent to fill up all the posts, which are vacant or to fill them up partly. All this depends upon the public need; administrative exigencies or looking to the availability of infrastructure or looking to the budgetary provisions. Above all, even if other factors are positive, then also it is a prerogative power of

  
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the respondent not to fill up all the vacancies, despite there being enough infrastructure ,Finance etc

5. Therefore, direction to the Respondent to fill up the vacancies doesn't fall within the ambit of Electricity Ombudsman.
6. The Appeal doesn't find any merit and the CGRF, Puducherry order is, therefore, upheld.
7. The appeal stands disposed off, accordingly.



(Rajesh Dangi)  
Electricity Ombudsman  
07.12.2017

1. The Observer  
Door No.B-5,230/110 K.V. Villainur  
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Copies to:

1. The Secretary, JERC
2. The Chairman, CGRF, Electricity Department
3. Sh Arvind ,JERC for uploading of Order on JERC website