(1997) 04 AP CK 0016

In the Andhra Pradesh High Court

Case No : W.A. No''s. 727, 876, 877, 880, 884, 888, 892, 896 and 900 of 1991

A.P. State Electricity Board and Others — APPELLANT

Vs

V.B.C. Foods Pvt. Ltd. — RESPONDENT

Date of Decision : 01-04-1997

Acts Referred:

Contract Act, 1872 — Section 74
Electricity (Supply) Act, 1948 — Section 49

Citation : AIR 1998 AP 177 : (1997) 3 ALT 249

Hon'ble Judges : Y. Bhaskar Rao, J;B.V. Ranga Raju, J

Bench : Division Bench

Advocate : K.N. Jwala, S.C, for the Appellant; C. Kodandaram and M. Narender Reddy, for the Respondent

Judgement

Y. Bhaskar Rao, J.—As the point involved in this batch of Writ Appeals is similar, they were heard together and arc being disposed of by this common judgment.

2. Writ Appeals Nos. 727 of 1991, 878 to 890 of 1991 and 892 of 1991 to 900 of 1991 and 1567 of 1992 are filed by the A. P. State Electricity Board (for short ''the Board'') assailing the judgment passed by the learned single Judge dated 10-4-1991 in Writ Petition Nos. 1044! of 1990 and batch partly allowing the Writ Petitions. The Board has also filed Writ Appeals Nos. 876 and 877 of 1991 and 891 of 1991 assailing the judgment passed by the learned single Judge dated 26-6-1991 in Writ Petitions Nos. 3766 to 3768 of 1991 allowing the Writ Petitions, while the Writ Appeal No. 527 of 1994 is filed by V.B.C. Foods Private Limited assailing the judgment of the learned single Judge dated 10-4-1991 passed in Writ Petition No. 10441 of 1990 and batch.

3. The Writ Petitioners, who are the High Tension consumers, hereinafter called as "consumers", have entered into an agreement with the Board for supply of electricity. The brief facts giving rise to filing of the Writ Petitions are that the Board increased the tariffs by B. P. Ms. No. 671, dated 10-6-1987 and B. P. Ms. No. 353, dated 15-4-1989, which were challenged by the consumers and some

others in Writ Petition No. 18111 of 1988 and batch. The learned single Judge of this Court partly allowed the said Writ Petitions holding that the levy of fuel cost adjustment charges on the H. T. consumers alone as per B. P. Ms. No. 671, dated 10-6-1987 is illegal and the increase in tariffs as per B. F. Ms. No. 353, dated 15-4-1989 is unreasonable and bad. Against the said judgment of the learned single Judge, the Board preferred Writ Appeal No. 1590 of 1990 and batch, which were allowed by a Division Bench of this Court. The said judgment of the Division Bench allowing the Writ Appeals filed by the Board was challenged by the consumers in the Supreme Court and the same is pending in the Supreme Court.

4. During the pendency of the Writ Petitions, the Writ Petitioners moved for stay. Pending disposal of the Writ Petitions, this Court passed orders staying collection of the enhanced tariffs fixed under the aforesaid B. P. Ms. subject to deposit of fifty per cent of the enhanced tariff. Subsequently, the Writ Petitions were allowed and the enhancement of the tariffs under the said B. P. Ms. was quashed. The Board filed Writ Appeals against the judgment passed in the Writ Petitions. Pending Writ Appeals, when the Board moved for suspension of the judgment of the single Judge passed in the Writ Petitions, a Division Bench of this Court directed continuance of deposit of 50 per cent of the enhanced tariffs, pending disposal of the Writ Appeals. The consumers have complied with the condition imposed in the interim orders. Thereafter, when the Writ Appeals were allowed setting aside the judgment of the learned single Judge, the consumers were directed to pay arrears in six equal monthly instalments. After the disposal of the Writ Appeals, the Board demanded the consumers to pay the addition al charges as per condition 32.1 of the terms and conditions of supply prescribed by the Board.

5. The said judgment is challenged in Writ Petition No. 10441 of 1990 and batch. The learned single Judge after elaborately considering the rival contentions partly allowed the Writ Petitions holding that from the date of allowing the Writ Petitions to the date of allowing the Writ Appeals the Board had no right to demand the additional charges from the consumers and, therefore, there is no violation on the part of the consumers and the consumers are not liable to pay the additional charges as per condition 32.2.1 of the terms and conditions of supply prescribed by the Board. He further held that by reading down the relevant portion of condition 32.2.1, additional charge at the rate of 2 per cent per month (half percent per week after amendment) for the period of delay, instead of Additional charges of 2 per cent per month/1/2 percent per week or part thereof for the period of delay as it existed/exists is reasonable and thus valid. It was further held that the Board has no right for laying surcharge for the period between the dates of judgments in W. P. No. 18111 of 1988 and batch and W. A. No. 1590 of 1990 and batch, which means that in regard to the Bills for which the due date expired before the date of judgment in W. P. No. 18111 of 1988, the additional charge is payable for the period from the due date, till date cf payment excluding the period between this dates of judgments in W. P. No. 18111 of 1988 and Writ Appeal No. 1590 of 1990 and batch, in regard to bills for which due date expired

between the dates of judgment in W. P. No. 18111 of 1988 and W. A. No. 1590 of 1990, additional charge is payable for the period from the date of judgment in W. A. No. 1590 of 1990 till date of payment; and in regard to the bills for which due date expired on or after the date of judgment in Writ Appeal No. 1590 of 1990, the additional charge is payable for the period from the due date of bill till the date of payment. The said judgmentof the learned single Judge is challenged by the Board and the Consumers.

6. Sri K. N. Jwala, learned Standing Counsel for the appellant-Board has contended that conditions 32.1 and 32.2.1 of the terms and conditions of supply prescribed by the Board are legal and valid and the Board has got the power to frame the terms and conditions of supply by Virtue of Section 49 of the Electricity (Supply) Act, 1948 (for short ''the Act''); the learned single Judge erred in holding that the Board has no right for levying surcharge for the period between the dates of judgments in W. P. No. 18111 of 1988 and batch and W. A. No. 1590 of 1990 and batch and for that period the consumers are not liable to pay the additional charges on the ground that there is no Violation of the conditions on the part of the consumers. It is further contended by the learned Standing Counsel that the rate of inflation is very high and the Board as an Institution cannot work unless it charges proper amount as additional charges in ease of failure to pay the amounts in. time by the consumers. It is also contended that there will be great difficulty in realising the amounts, if additional charges are not imposed on the defaulting consumers. It is lastly contended by the learned Standing Counsel for the Board that the learned single Judge while upholding the Validity of conditions 32.1 and 32.2.1 has erred in holding that the Board has no right to levy additional charges. Thus arguing he sought that the appeals filed by the Board be allowed and the appeal filed by the consumer be dismissed.

7. On the other hand Sri C. Kodandaram, learned counsel appearing for the consumers, has contended that conditions 32.1 and 32.2.1 are arbitrary and illegal. As per condition 32.2.1 of the terms and conditions of supply, the Board is authorised to levy 24 per cent of interest for the delayed payment and further entitled to receive 18 per cent of interest, in case the consumer reques is time for payment in instalments, which will come to 42 per cent interest, which is arbitrary, illegal and usurious. He further contended that when here is agreement between the Board and the consumers, the Board cannot fix unilaterally higher rate of amount as additional charges.

8. In view of the above contentions raised by both sides, the important question of law to be considered in this batch of Wril Appeals is :-- Whether the consumers are. liable to pay additional charges for the period from the date of allowing the Writ Petitions filed by the consumers till the date of allowing the Writ Appeals filed by the Board?

9. In exercise of the powers conferred as per Section 49 of the Act, the Board framed various terms and conditions of supply. Condition No, 32.1 obligates the Board to issue bill of charges stating the amount payable by the consumer

towards the charges for energy supplied and for any, other sum in connection with supply of energy by the Board and that bill has to be issued within 15 days after the expiration of each calendar month. As laid down in condition 32,2.1. the bill amount has to be paid by the High Tension consumers within 15 days and within 14 days by the Low Tension Consumers from the date of bill. In case of failure of payment of the bill amount within the time specified, the consumer shall be liable to pay the additional charges at the rate of 2 per cent per month or part thereof for the period of delay on the amount of the bill.

10. After the tariff was increased, the Board issued bills demanding the amount from the consumers. The consumers filed W.P. No. 11111 of 1988 and batch assailing the B. P. Ms. No. 571, dated 10-6-1987 and B. P. Ms. No. 353 dated 15-4-1989 by which the tariff was increased. Pending the Writ Petitions, this Court granted stay of collection of enhanced tariff fixed in the above B, P. Ms. subject to deposit of 50 per cent of the enhanced tariff, apart from paying the regular tariff. The said Writ Petitions were allowed quashing the above B.P.Ms. Against the judgment passed in W. P. No. 18111 of 1988 and batch, W. A. No. 1590 of 1990 and batch were preferred by the Board and the said Writ Appeals were allowed by a Division Bench of this Court. Thereafter, notices were issued to the consumers demanding payment of additional charges and the same was challenged in W. P. No. 10441 of 1990 and batch which were partly allowed. The said judgment of the learned single Judge is challenged in this batch of Wril Appeals. Therefore, we have to examine whether the consumers are liable to pay the additional charges or not.

11. Condition No. 32.2.1 of the terms and conditions of supply authorises the Board to collect additional charges where there is delay in payment of the bill amount after the expiration of 15 days from the date of issue of demand notice. Conditions 32.1 and 32.2.1 were challenged by the consumers in the Writ Petitions. Though condition 34 of the terms and conditions of supply was challenged, the same is not pressed before us. Therefore, we have to now examine the constitutional validity of condition Nos. 32.1 and 32.2.1 of the terms and conditions of supply. As stated supra, the said conditions contemplate payment of additional charges where there is failure on the part of the consumer in payment of the bill amount for more than 15 days after issuing the demand notice. It is contended by the burned counsel appearing tor the consumers that the said conditions are illegal and arbitrary.

12. As already stated, Section 49 of the Act empowers the Board to frame the terms and conditions of supply. By virtue of the said ppwer conferred on the Board, the terms and conditions of supply are framed by the Board. Thus, it is clear that there is no legislative lacuna or legislative incompetcncy in framing the terms and conditions in question. As the power is conferred on the Board by virtue of Section 49 of the Act, the Board is entitled to frame terms and conditions of suppiy, including fixing of additional charges, if the consumer fails to pay the tariff within the stipulated time. Therefore, conditions 32.1 and 32.2.1

cannot be said as illegal and unconstitutional.

13. It is contended by the learned counsel appearing for the consumers, Mr. C. Kodandaram, that collection of 2 per cent per month or part thereof for the period of delay on the amount of the bill from the consumers is not warranted at all and it is not an interest find once it is not an interest, it amounts to contravention of Section 74 of the Indian Contract Act. In this connection, it is relevant to extract Sub-section (1) of Section 49 of theAct, which reads as follows :--

"49. Provision for the sale of electricity by the Board to persons other than licensees :-- (1) Subject to the provisions of this Act and of regulations, if any made in this behalf, the Board may simply electricity to any person not being a licensee upon such terms and conditions as the Board thinks fit and may for the purposes of such supply frame uniform tariffs."

As per the above provision, the Board has got ample power to frame the terms and conditions of supply. In pursuance of the said power conferred on the Board, conditions 32.1 and 32.2.1 were framed by the Board. The above conditions only empower the Board to issue demand nonce to consumers levying additional charges at the rate of 2 per cent per month or part thereof for the period of delay, in case the consumers fail to pay the bill amounts within the stipulated time. Except contending that the said conditions are illegal and unconstitutional, no authority is placed before us to show that similar conditions as that of conditions 32.1 and 32.2.1 of the terms and conditions of supply were declared as illegal by the Supreme Court.

14. It is also contended on behalf of the consurrers that when the interim orders were granted in Writ Petitions, pending disposal of Writ Petitions, there is no failure on the part of the consumers to pay enhanced tariff and therefore, the consumers are not liable to pay additional charges. In order to effectively decide the said point, it is relevant to examine the nature of the stay granted by this Court. Number of Writ Petitions were filed by the consumers questioning the increase in the tariff. This Court in identical Writ Petitions passed interim orders staying collection of enhanced tariff subject to consumers depositing half of the enhanced tariff. By looking a t the interim orders, which are extracted by the learned single Judge, it is clear that this Court has not suspended B. P. Ms. No. 671 dated 10-6-1987 and B. P. Ms. No. 353 dated 15-4-1989 by which the tariff was increased by the Board. On the other hand, this Court permitted the consumers to pay half of the enhanced tariff and by that itself it cannot be said that the B. P. Ms. issued by the Board are contrary to law. The question is whether there is failure on the part of the consumers in paying the additional charges. W. P. No. 18111 of 1988 and batch were allowed on 6-9-1989 quashing the B. P. Ms. No. 671, dated 10-6-1987 and B. P. Ms. No. 353 dated 15-4-1989. Aggrieved by that order, the Board filed Writ Appeal No. 1590 of 1990 and batch and the said Writ Appeals were allowed on 2-4-1990.

15. As contended by the learned Standing Counsel for the Board, the Board has issued demand notices to the consumers and the consumers, instead of paying the amounts, filed Writ Petitions and obtained interim orders as stated supra, It is a fact that B. P. Ms. No. 671, dated 10-6-1987 and B. P. Ms. No. 353, dated 15-4-1989 were not suspended by this Court, but this Court has stayed the collection of additional charges subject to the condition of consumers paying half of the enhanced tariff, apart from the regular tariff, in other words, it means that the consumers were exempted from payment of 50 per cent of the enhanced tariff. Finally, the Writ Petitions were allowed and the said B. P. Ms. were quashed. Once the Writ Petitions were allowed and the B. P. Ms. were quashed, there is no right to the Board 10 demand the amount during that period i.e. from the date of allowing the Writ Petitions (6-9-1989) to the date of allowing the Writ. Appeals (2-4-1990). It is also relevant here to mention that this Court has not suspended the B. P. Ms. in question and the consumers were only permitted to pay half of the enhanced tariff. Therefore, until the Writ Petitions are allowed, there was no bar for the consumers to pay the amount when they have already received the demand notice from the Board. As the consumers failed to pay the amount, they are liable to pay the additional charges as laid down in condition No. 32.2.1. As stated above, Writ Petition No. 18111 of 1988 and batch were allowed on 6-9-1989 and Writ Appeal No. 1590 of 1990 and batch filed by the Board were allowed on 2-4-1990. Therefore, the question now to be decided is whether the consumers are liable to pay additional charges for the period from the date of allowing the Writ Petitions (6-9-1989) to the date of allowing the Writ Appeals (2-4-1990). Though the Writ Petitions were allowed by the learned single Judge, the conditions in question providing for collection of additional charges were only kept in suspended animation till the Writ Appeals were allowed and as soon as the Writ Appeals were allowed again they were revived. It is a well settled principle of law that the judgment in Writ Appeals dates back to the dale of allowing the Writ Petitions. As per the conditions in question, the liability of the consumers to pay the additional charges arises after expiration of 15 days after receipt of demand notice and the said conditions were not suspended, pending disposal of the Writ Petitions, though the consumers were permitted to pay 50 per cent of the enhanced tariff. Thus, the failure to pay the demanded amount continued on the part of the consumers, pending disposal of the Writ Petitions. So, the contention of the learned counsel appearing for the consumers that as the consumers filed Writ Petitions and as conditional order was granted by this Court, it has to be deemed that the relevant B. P. Ms. were suspended cannot be accepted as there was no bar to the consumers to pay the demanded amount and fight in the Court after paying the amounts.

16. The next question that arises for consideration is whether there is a failure on the part of the consumers in paying the demanded amount from the date of allowing the Writ Petitions to the date of allowing the Writ Appeals. The Writ Petitions were allowed and it was declared that the consumers were not liable to pay the enhanced tariff. The Writ Appeals filed by the Board were allowed setting

aside the judgment passed by the learned single Judge in the Writ Petitions. At the most, it can be said that from the date of allowing the Writ Petitions till the date of allowing the Writ Appeals, failure of the consumers in paying the demanded amount is kept in suspended animation. It is further to be noticed that pending the Writ Appeals, the Division Bench directed the continuance of depositing 50 per cent of the enhanced tariff, Therefore, all these circumstances go to show that as soon as the Writ Appeals filed by the Board are allowed setting aside the judgment of the learned single Judge, the liability of the consumers to pay the additional charges is revived, Therefore, in those circumstances, it has to be held that the failure on the pan of the consumers to pay the demanded amount, which has started before filing of the Writ Petitions, will continue till the Writ Appeals are allowed and till the amount is paid by the consumers.

17. The learned counsel appearing for the consumers, Mr. C. Kodandaram, has relied on the decision of the Supreme Court in Adoni Ginning Factory and Others Vs. Secretary, Andhra Pradesh Electricity Board, Hyderabad and Others, . In carder to compare this case with the case on hand, it is relevant to know the facts of this case. The facts of the case are that the appellant therein was a consumer and the Government of Andhra Pradesh by G.O. Ms. No. 187, dated 30-1-1955 increased the rates of supply of electrical energy over and above the contracted rates. The same was challenged by filing the Writ Petitions and pending disposal of the Writ Petitions, stay of collection of entire enhanced charges was granted and finally the Writ Petitions were allowed by the single Judge and the G.O. Ms. No. 187 dated 30-1-1955 was struck down. Against the said judgment of the learned single Judge, appeals were filed. The appeals were allowed by Division Bench of the High Court on 19-12-19: 18 upholding the G.O. Ms. No. 187, dated 30-1-1955. Thereafter, the A.P.S.E.B., to which the Government had transferred the Electricity undertakings with effect from 1-4-1959 has issued the bills to the consumers to pay the arre ars of the enhanced charges. Then the matter was carried to the Supreme Court by the consumers and obtained orders of injunction restraining the Government from realising from them the amount of arrears occasioned by the enhancement of rates. The injunction was granted subject to the condition that the consumers offered security for such amount of arrears. Each consumer was expressly told that if his contention were eventually rejected by the Supreme Court he would have to pay the amount of arrears with surcharge there on calculated at two per cent per rupee per monthly The Supreme Court ultimately dismissed the appeals filed by the consumers. Thereafter, the Board called upon the consumers to pay the surcharge at the rate of 12 per cent per annum on the arrears of the amount demanded. That was challenged before the High Court and ultimately the matter was carried to the Supreme Court. It was contended before the Apex Court that the consumers could not be penalized for nonpayment of enhanced charges in the face of the order of injunction obtained by them and in view of the injunction no default has been committed by them; the levy of surcharge was penal in

nature and could not be enforced; and the bills issued to them after the decision of the Division Bench of the High Court did not call upon them to pay the arrears and, therefore, there was no question of their becoming liable to pay any surcharge. Considering those circumstances, the Supreme Court held that the surcharge prescribed is not a penalty and it was further held that the injunction granted by the Supreme Court bound the Electricity Board and all that the injunction did was to restrain the Board from realising the arrears which meant that the Board was restrained from taking any coercive action such as disconnection of supply of electricity etc. for the realisation of arrears, but the operation of G.O. Ms. No. 187, dated 30-1-1955 as such was not stayed. It was further held that the obligation of the consumers to pay charges at the enhanced rates was not suspended through the Electricity Board was prevented from realising the arrears, It was also held that if the consumers did not pay the arrears they were bound to pay the surcharge. It was further held that the Board had a right in claiming surcharge for the period during which the appeals were pending in the Supreme Court and not claiming surcharge for the period daring which the Writ Petitions and Writ Appeals were pending in the High Court. Thus, the facts and circumstances of this case are quite different from the facts of the case on hand. In the present case, there is no blanket stay granted and only conditional stay was granted permitting the consumers to deposit half of the enhanced tariff and this Court did not suspend the above B. P. Ms. in the Writ Petitions. Therefore, the contention of the learned counsel for the consumers that there is no liability on the consumers to pay the additional amount for failure to pay the demanded enhanced tariff is not tenable.

18. It is also relevant to refer to the recent decision of the Division Bench of the Allahabad High Court in M/s. Kanoria Chemicals and Industries Ltd. Vs. U.P. State Electricity Board and other, . The facts of this case are akin to the facts of the present case. The writ petitioner was the consumer of electricity and it has not paid the demanded amount in time. Therefore, additional charges were levied. A Public Limited company was the petitioner before the Court in this case and it was engaged in the business of manufacturing caustic soda and allied chemicals in the district of Sonebhadra, By notification dated 21-4-1990 the U, P. State Electricity Board revised the electricity rates u/s 49 of the Electricity (Supply) Act, 1948 and the said notification was issued in supersession of all the previous notifications, orders and instructions and existing rate scheduled were substituted by rate schedule appended to new notification, It was further provided in Clause 7(b) of the notification that in case the electricity dues are not paid by due date, the consumer shall be liable to pay additional charges. The notification was challenged in High Court under Article 226 of the Constitution of India. The Court granted the following interim order :--

"Meanwhile till 23-8-1990 unless recalled earlier, the operation of notification dt. 21-4-1990 shall remain stayed. The respondents are restrained from realising the additional amount of electric charges from petitioners in pursuance of the said notification, However, the petitioners shall continue to pay the old rate."

The interim orders limited initially for a particular period were being extended from time to time. Ultimately, the writ petitions were dismissed. It was contended before the High Court that as the notification was stayed by the High Court the petitioner was not liable to pay the additional charges. It is secondly contended that the delay under Clause 7(b) of the notification means deliberate and conscious delay and it does not contemplate delay which U caused due to the orders of the Court, It was thirdly contended that as the notification was issued in supersession of earlier notification and the latter notification was stayed by the High Court, the rate prescribed by the earlier notifications stood revived and remained in operation during the operation of the stay order on account of which there is no default on the part of the petitioners. Fourthly, it was contended before the High Court that the petitioner cannot be made to suffer for the acts of the Court. It was also contended that after disposal of the writ petitions only the liability of the petitioner to pay the additional charges has been revived. After referring to the decisions in Sri Ram Charan Das Vs. Pyare Lal, and Shyam Manohar Shukla v. State of U.P. 1986 (4) LCD 196, the pivision Bench of Allahabad High Court has held that after the dismissal of the writ petitions, wherein notification was stayed, the result brought about by the interim orders staying the notification, became non est in the eye of Jaw and lost all its efficacy and the notification became effective from the beginning, and the result is that liability of the petitioner to pay the additional charges on the electricity dues, payment of which was not made within time, stands revived with retrospective effect and they are liable to pay the same and no exception can be taken to the, impugned bill issued by the Board. The Division Bench of Allahabad High Court has also referred to the decision of the Suprem Court in Adoni Ginning Factory''s case (supra) and distinguished the same with the case before it. The facts of this case are similar to the facts of the present case. In the present case there was no blanket stay granted and only conditional stay was granted and therefore, it cannot be said that the B.M.Ms. increasing the tariff were suspended. Even assuming that they were suspended on the date of allowing the writ petitions, as soon as the writ appeals are allowed and the judgment of the learned single Judge is set aside, the suspension is taken away and it revives back to the original position. Therefore, the consumers are liable to pay the additional charges as the failure to pay the demand tarrif has started from the expiration of 15 days of issuing of the bill.

19. Now the contention by the learned counsel for the consumers that the right of the Board to impose the additional charges as prescribed under conditions 32.1 and 32.1.1 is excessive and usurious has to be consdiered. As per condition 32.2.1 where there is failure to pay the bill amount within 15 days by the H.T. consumers, they are liable to pay additional charges at the rate of 2 per cent per month or part thereof. As stated supra the Board has got ample power to frame terms and conditions by virtue of Section 49 of the Act. The only question is whether imposing additional charges at the rate of 2 per cent per month or part thereof on the defaulting consumers is unreasonable and arbitrary. Even

according to the consumers, the banks arecharging interest ranging from 15 to 18 per cent per annum. When the banks are charging such rates of interest, it cannot be said that the additional charges imposed by the Board at 24 per cent per annum or 2 per cent per month is too excessive. The Board is a very gigantic institution having its operation of supply of electrical energy to the entire State and it has to meet the expenditure in crores of rupees. Unless ii has stringent provisions enabling it to collect the electricity tariffs promptly, it would not be possible for the Board to collect the same. If the additional charges are fixed at the rate of bank interest or lesser than that, the consumers will commit more defaults/delays in payment of amounts because the amount payable is less and by taking recourse to such practice, they will be benefited. Therefore, taking all these circumstances into consideration, the Board has fixed the above said amounts as additional charges. The learned counsel lor the consumers relying on the decisions in Bhai Panna Singh v. Bhai Arjun Singh AIR 1929 PC 179, Fateh Chand Vs. Balkishan Das, , Maula Bux Vs. Union of India (UOI), , Naresh Chandra Sanyal Vs. Calcutta Stock Exchange Association Ltd., and Thakker Keshavlal Mohanlal Vs. Parekh Amrutlal Harilal and Others, , contended that the additional charges fixed are contrary to Section 74 of the Indian Contract Act. There is no doubt in the principle laid down in the above judgment, but in the present case the amount fixed is not only rate of interest but the amount is fixed for something more to enable the Board to realise the amounts quickly. As rightly observed by the learned single Judge, we do not see any force in this contention. Hence, we hold that additional charges prescribed by the Board are neither excessive nor usurious.

20, Writ Appeals Nos. 727 of 1991, 876 to 900 of 1991 and 1567 of 1992 filed by the Board are allowed and the Writ Appeal No. 527 of 1994 filed by the consumer is dismissed. There shall be no order as to costs.

