

(2002) 02 NCDRC CK 0015

In the National Consumer Disputes Redressal Commission

ASSISTANT ENGINEER (RURAL) R.S.E.B., SWAI MADHOPUR,
RAJASTHAN

APPELLANT

Vs

SABOODIN

RESPONDENT

Date of Decision : 25-02-2002

Acts Referred:

Citation : 2002 0 NCDRC 46 : 2003 0 ACJ 688 : 2003 1 CPJ 87 : 2003 1 CPR
16 : 2003 2 CLT 408 : 2003 2 CPC 254

Hon'ble Judges : B.K.TAIMNI , D.P.WADHWA , J.K.MEHRA , RAJYALAKSHMI RAO
J.

Advocate : MANISH SINGHVI

Judgement

1. PETITIONER -Electricity Board was the opposite party before the District Forum. Complaint of the respondent-complainant regarding deficiency in service as excessive bills of electricity consumed were presented, was allowed by the District Forum. Petitioner went in appeal before the State Commission. It was dismissed on the ground of limitation as certified copy was not filed within the period of limitation. Order of the State Commission is as follows: "This appeal was filed on 30.3.1999 against the order of the District Forum, Swai Madhopur dated 20.2.1999. In this case the certified copy of the order was not filed with the appeal. It has been filed as late as on 29.9.1999. Thus the appeal is not only delayed by 4 days, it is delayed by more than six months. It has been mentioned in the application that when the objection was raised by the Registry that the certified copy has not been filed they came to know about it. Whether appeal is accompanied by a certified copy of the order or not if the Advocate appearing for the appellant does not ascertain it then the Advocate must thank himself and, therefore, the appeal is highly time barred and is hereby dismissed. However the RSEB is free to agitate its right before a competent Civil Court if so advised."

2. UNDER Sub-section (2) of Section 30 of the Consumer Protection Act, State Government is authorised to frame rules with reference to Section 15 of that Act. Section 15 provides for appeals to the State Commission against the order of the

District Forum and appeal could be filed within a period of 30 days from the date of the order, in such a form and manner as may be prescribed. This period of limitation can be extended if appellant shows sufficient cause for not filing appeal within the period of limitation. Now we may refer to the Consumer Protection Rules (Rajasthan Rules), 1987. Relevant would be Rule 8. Sub-rule (3) of Rule 8 provides that each memorandum of appeal shall be accompanied by the certified copy of the order of the District Forum appealed against. As to what is certified copy nothing has been said in the Act or in the Rules. Because of that it would appear that State Commission thought of certified copy in terms of what is understood in Civil Courts. Under the provisions of the Act and Rules, District Forum is obliged to send a copy of its order free of cost. That, in our view, would constitute a certified copy of the order of the District Forum. There is no provision under the Act or the Rules for any application to be filed for taking certified copy understood in civil jurisprudence. It is entirely different thing that many District Forums and State Commissions of its own are giving copies styled as certified copies. That would not, however, change the position in law. In the present case appeal had been filed accompanied by a copy of the order of the State Commission. It is not clear to us if that copy was the one supplied by the District Forum or it was a copy of that. If it is not copy of the order given to the appellant by the District Forum, time could have been granted to the appellant to file the same. State Commission, in our view, took rather a too technical view of the matter which is not in the interest of consumer, keeping in view the objects of the Act. Certified copy as well can mean certified true copy and though it is not that copy which was given by the District Forum and in case of doubt, State Commission can direct the appellant to file an affidavit in support of the correctness of the copy. We would, therefore, set aside the order of the State Commission and would remand the matter to it for decision of the appeal according to law. State Commission shall give notice to both the parties.