

(2004) 09 NCDRC CK 0097

In the National Consumer Disputes Redressal Commission

CHANDIGARH ADMINISTRATION

APPELLANT

Vs

Malkhan Singh

RESPONDENT

Date of Decision : 13-09-2004

Acts Referred:

Citation : 2005 1 CLT 191 : 2005 1 CLT 599 : 2005 1 CPC 168 : 2005 1 CPJ 60 : 2005 1 CPR 15

Hon'ble Judges : K.K.Srivastava , MajGenS.P.Kapoor J.

Final Decision : Appeal dismissed

Judgement

1. AFTER hearing Mr. K.C. Sahu, Govt. Pleader appearing for the appellant and perusing the impugned order dated 19.1.2003 passed by District Consumer Disputes Redressal Forum-II, U.T., Chandigarh [for short hereinafter referred to as the District Forum] and also the record of the Complaint Case No. 210 of 2001, which was summoned by us today itself, we are of the considered opinion that the impugned order does not suffer from any infirmity either in fact or in law. Our reasons are as under:

2. MR. K.C. Sahu, Government Pleader strenuously argued that the case of the appellant was about the theft of electric energy by the respondent/complainant by means of direct connection by way of Kundi. He pointed out that the District Forum has erroneously decided the case of the appellant-Department as one of tampering of M and T seals affixed on the electricity meter installed in the premises of the respondent/complainant. The aforesaid submission of the Govt. Pleader is belied by letter dated 1.2.2001 issued by the Sub-Divisional Officer, Electricity Office, Sub-Division No. 10, Sector 40-B, Chandigarh to the complainant on subject "Theft of Elecy. Against M. No. CH-27847 and A/c No. K5-188", which reads, inter alia, as under: "Special checking of your premises was made on dated 15.1.2001 against the subject cited A/c No. K5-188 was carried out and found that both the M and T seals are tampered. Thus, as per Clause 33 of abridged conditions of supply, you are using the supply by wrong means (theft of energy)..."

This letter was referred to by the District Forum who, in our considered opinion, rightly dealt with the case of the appellant as that of tampering of M and T seals for coming to the decision of theft of electric energy. The District Forum cited the judgment of the Hon"ble Supreme Court in the case of Punjab State Electricity Board v. Vijay Kumar, 1993 CPC 739. The Hon"ble Apex Court laid down that the tampering of M and T seals by itself did not amount to necessarily the theft of electric energy. Apart from it, we find amendment in the procedure for calculation of compensation/penalty for the alleged unauthorised use of electricity, which was not followed in the instant case. The appellant in letter dated 1.2.2001, as quoted above, imposed a penalty of Rs. 9,000/- to be paid by the respondent/complainant to the appellant-department.

The District Forum held that the calculation of this amount of Rs. 9,000/- was wholly arbitrary and not based on any credible material. The District Forum thus rightly set aside the order of the payment asking the respondent/complainant to pay penalty of Rs. 9,000/-. The District Forum, however, issued a direction to the appellant-department to calculate the compensation as per the proper norm to be used as contained in the order/notification dated 4.1.1999 issued by the Engineering Department, U.T., Chandigarh.

3. RESULTANTLY, the appeal lacks merit and is dismissed in limine. Copies of this order be sent to the parties free of charge. Appeal dismissed.