

(2004) 07 NCDRC CK 0068

In the National Consumer Disputes Redressal Commission

DELHI VIDYUT BOARD

APPELLANT

Vs

KRISHNA DEVI

RESPONDENT

Date of Decision : 05-07-2004

Acts Referred:

Citation : 2004 4 CPJ 376

Hon'ble Judges : Rumnita Mittal , Mahesh Chandra J.

Final Decision : Appeal dismissed

Judgement

1. THIS appeal is directed against order dated 22.3.2002 passed by District Forum, Janak Puri, New Delhi in Complaint Case No. 526/2001-entitled Smt. Krishna Devi v. Delhi Vidyut Board.

2. THE brief facts, leading to the filing of the present appeal are that the respondent in response to the Voluntary Declaration Scheme floated by the appellant in the year 1995 had applied for enhancement of load in respect of his electric connection bearing K. No. MN 007-61615-17-2112 2460/2 B. THE respondent had also deposited a sum of Rs. 15,113/- on 19.1.1996 for enhancement of load from the existing sanctioned load of 1 KW to 11 KW. However, the appellant failed to enhance the load and on the other hand sent a bill in the month of December, 2000 for Rs. 1,72,120/- payable by 13.2.2001. THE said bill reflected arrears of Rs. 1,28,116.14 p. and LPC charges for Rs. 36,422/- whereas the respondent had not received any bill prior to the said bill. As such the respondent was constrained to file a complaint before the District Forum praying for the quashing of the said bill raised illegally, as well as, for refund of Rs. 15,113/- deposited by her for getting the load enhanced together with interest. THE respondent had also prayed for compensation of Rs. 1,00,000/- and cost of the proceedings. The defence of the O.P. in its reply/ written version filed before the District Forum was that the respondent had herself admitted the fact that she was using 11 KW of load against the sanctioned load of 1 KW and she had also given an undertaking, as well as, declaration in the application for enhancement of load to the said effect and,

therefore, there was no deficiency in service on its part, in raising the bill on the basis of the enhanced load.

The learned District Forum on the basis of material on record held the appellant guilty of deficiency in service and directed the quashing of the impugned bill for the month of December, 2000 for an amount of Rs. 1,70,118/- and also directed the appellant to withdraw the said bill and issue a revised bill on the basis of consumption as reflected in the meter on the basis of the sanctioned load of 1 KW. The District Forum also directed the appellant to refund Rs. 15,113/-, deposited as load enhancement charges together with interest @ 12% from 19.1.1996 till the date of payment, as well as, awarded compensation of Rs. 1,000/- and Rs. 500/- as cost of litigation to the respondent.

3. AGGRIEVED by the aforesaid order, the appellant has preferred the present appeal before this Commission. We have carefully perused the documents/material placed on record and have also heard the arguments advanced on behalf of the parties. The contention of the appellant in the present appeal is two-fold. Firstly, that enhancement of the load had been delayed on account of the default of the respondent herself as she had failed to fulfil the required commercial formalities. Secondly, that the respondent had herself declared in the application form for enhancement of load that she was using the load of 11 KW instead of the sanctioned load of 1 KW and had also given an undertaking to the said effect. Furthermore, the existing meter installed at the premises was sufficient for the capacity of 5 KW and had safety factor of 3-4 times therefore the respondent could have used the said load through the existing meter. Even otherwise the respondent was not using all the machines installed at the same time and, therefore, the bill raised on the basis of the enhanced load of 11 KW was absolutely justified in the circumstances of the case. We are, however, unable to accept the above said contention of the appellant that the respondent had failed to fulfil the necessary formalities required for enhancement of the load. The appellant has failed to spell out the formalities remaining to be fulfilled by the respondent, after having duly submitted the application form, undertaking and depositing the required amount. It has also been contended in this regard that vide letter dated 8.5.2000, the respondent was required to submit the photo copies of two months misuse paid bills along with copy of the last paid bill. However, in view of the fact that no bills were issued to the respondent after she had applied for enhancement of load, and it was only in December, 2000 that the first bill for Rs. 1,72,120/- was raised by the appellant, the respondent could not have been in a position to fulfil the said requirements. Be as it may the verification of payments received from the respondent till date could have been verified by the appellant from its own record. Therefore, the non-enhancement of load even after receiving the requisite charges by the appellant was definitely a deficiency in service on the part of the appellant.

4. SO far as the second contention of the appellant is concerned, it is the admitted case that a format and undertaking on which the consumers have to

apply for enhancement of load is a printed format which has to be filled in as per the requirement of the appellant. Thus, the consumer has no choice in the matter, but to follow the directions as dictatd by the appellant. Furthermore, the fact that the respondent could not have been using 11 KW is apparent from the admission of the appellant itself that though the meter in question installed at the premises has the capacity of 5 KW and also a safety factor of 3-4 times, the same could not have borne the load of 11 KW and also that the respondent was not using all the motors installed at the same time. In the circumstances, the appellant having failed to prove its contentions. There is no infirmity in the impugned order. Accordingly, the present appeal, filed by the appellant is liable to be dismissed and is dismissed with no order as to costs. The appellant is however, directed to comply with the directions contained in the impugned order within 30 days of the receipt of this order. Appeal dismissed.