

(2003) 10 NCDRC CK 0067

In the National Consumer Disputes Redressal Commission

DEPUTY ENGINEER, G.E.B.

APPELLANT

Vs

BALDEVBHAI A. PATEL

RESPONDENT

Date of Decision : 10-10-2003

Acts Referred:

Citation : 2004 1 CPC 215 : 2004 1 CPJ 64

Hon'ble Judges : M.S.Parikh , M.K.Joshi J.

Final Decision : Appeal partly allowed.

Judgement

1. THIS appeal arises from order dated 6.8.2001 rendered by the learned Gandhinagar District Consumer Disputes Redressal Forum in Complaint No. 74/2001 directing the opponent Gujarat Electricity Board (GEB for short), to refund Rs. 3,500/- being the amount of additional bill issued on the allegation that consumer used 7 H.P. more than the contracted load of 55 H.P., and compensation in the sum of Rs. 2,500/- on the head of mental agony and hardship, and cost in the sum of Rs. 1,000/-.

2. WHEN this appeal came up for hearing no one remained present for the respondents, being the original complainants. We have heard the learned Advocate for the appellants, being the original opponents. We have gone through the impugned order. We have also gone through the memorandum of appeal. Learned Forum has come to the conclusion that the opponent GEB failed to prove by producing agreement between the parties that the contracted load was 55 H.P. Learned Forum has also come to the conclusion that the opponent GEB failed to prove that the complainant used 62 H.P. load against the contracted load of 55 H.P. Finally, learned Forum has come to the conclusion that the inquiries/ inspection carried out by the opponent GEB was inappropriate in the sense that the inspection was not carried out by clip-on meter. Learned Advocate appearing for the appellant GEB has shown to this Commission the inspection report/ checking sheet. However, that sheet does not contain signature of any panchas as observed by the learned Forum. In fact no panchas were kept present at the time of inspection/checking. In this respect learned Advocate for the appellant

GEB has made reference to a decision of Gujarat High Court in the case of State of Gujarat v. Bhemji Ranchodji Patala Thakor, reported in 1999 (2) GLR 1767. That was a case with regard to abstracting electricity directly from electric pole bypassing meter. Trial Court rendered acquittal since evidence of officers of the Electricity Board was not supported by panch witnesses. In the background of such particular facts the High Court ruled that evidence of prosecution witnesses cannot be discarded only on the ground that there was no support of a panch. That is how the acquittal was overturned and conviction was rendered by a learned Single Judge of the Gujarat High Court. In our considered opinion this decision will not be applicable with regard to the facts of the case and more particularly with regard to the fact that the signature obtained by the opponent GEB (appellant herein) was not that of the consumer. It has been submitted that the checking sheet contained signature of the consumer. However, the signature is not of the consumer but of some other person. It has been submitted that the person who signed the checking sheet happened to be a partner of the consumer, complainant-2 Patel Arvindbhai Bapudas. The opponent GEB (appellant herein) has not adduced any evidence to show that the person who signed the checking sheet was a partner of the complainant No. 2. Electricity connection has been given in the individual capacity in the name of complainant No. 2.

Bearing in mind all these circumstances apparent on the face of the checking sheet and the reasons given by the learned Forum we do not propose to show any indulgence in respect of the complainants cause against the impugned additional bill of Rs. 3,500/-.

3. HOWEVER, there is great deal of substance in respect of award of compensation on the head of mental agony and hardship and cost. Learned Forum has proceeded to award compensation in the sum of Rs. 2,500/- which is apparently without basis and disproportionate to the amount involved with regard to the main cause. Same is the position with regard to cost in the sum of Rs. 1,000/-. We, therefore, propose to award Rs. 500/- for cost and compensation together. Following order is, therefore, passed : Impugned order dated 6.8.2001 rendered by the learned Gandhinagar District Consumer Redressal Forum in Complaint No. 74/2001 is hereby maintained except with regard to order directing payment of compensation and cost respectively in the sum of Rs. 2,500/- and Rs. 1,000/- which order is hereby set aside and instead opponent GEB (appellant herein) is hereby directed to pay Rs. 500/- by way of compensation and cost together. Time for payment is hereby extended by six weeks from today. This appeal is accordingly partly allowed with no further order as to cost. Appeal partly allowed.