
(1987) 10 AP CK 0028
In the Andhra Pradesh High Court
Case No : Writ Petition No. 5818/83

Dr. P. Shyam Prasad

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 09-10-1987

Acts Referred:

Telegraph Act, 1885 — Section 7B, 7B(1)

Citation : (1987) 10 AP CK 0028

Hon'ble Judges : K. Ramaswamy, J

Bench : Single Bench

Advocate : C. Padmanabha Reddy, for the Appellant; R. Sriamulu for Central Govt., for the Respondent

Final Decision : Allowed

Judgement

K. Ramaswamy, J.—The Petitioner is a Doctor practising at Tirupathi and has the telephone connection bearing No. 2952. For the period from February 1, 1982 to April 1, 1983, his maximum bill was only Rs. 412/- but he received in the interregnum period the bill ending with May 1, 1981 for Rs. 14,329-10 Ps. with Bill No. 29920. Then he complaint that he had not used the S.T.P. but he was using the telephone for incoming calls only. The Petitioner asked for disconnection of the STD facility and accordingly it was disconnected. For the quarter ending February 1, 1982 he received a bill for a sum of Rs. 6,310/- and another bill for the period ending November 1, 1981 for a sum of Rs. 6,760/-. The Petitioner complains that his telephone bill was wrongly billed for the huge amounts for which he had not used the telephone service. He seeks a mandamus for reference to the Arbitrator as contemplated u/s 7B of the Indian Telegraph Act, 1885, for short, "the Act". This relief is resisted by the Respondents and it is contended by Sri R. Sriramulu, their learned Standing Counsel that Section 7B of the Act does not apply to wrong billing. In support thereof, he placed strong reliance on a decision reported in Raghubar Dayal Kanodia Vs. Union of India (UOI) and Others, The question therefore is whether the dispute can be referred

to the arbitrator or not as contemplated u/s 7B of the Act. Sub-section (1) of Section 7B reads thus:

Except as otherwise expressly provided under this Act, any dispute concerning any telegraph line, appliances or apparatus arises between the Telegraph Authority and the person for whose benefit the line, appliance or apparatus is, or has been provided, the dispute shall be determined by arbitration and shall for the purposes of such determination, be referred to an arbitrator, appointed by the Central Government either specially for the determination of the dispute or generally for determination of disputes under this section.

A reading thereof, indicates that when a dispute regarding apparatus is concerned, then it would be a matter of reference to the arbitrator specially appointed by the Central Government. The question, therefore is whether wrong billing is a dispute concerning to the apparatus or any other matter connected therewith. When the Petitioner has been consistently using the services of the telephone connection and the Meter reading does not normally exceed Rs. 412/-, then there must be some extraordinary reasons for making the bills for Rs. 14,320-10 Ps., Rs. 6,310/- and Rs. 6,760 for the respective periods. Therefore, when the Petitioner is disputing the correctness thereof, necessarily it concerns or relates to the use of apparatus by the Petitioner. Admittedly except the procedure contemplated u/s 7B of the Act, there is no other procedure provided under the Act or any rules made therein to adjudicate the dispute. The Petitioner's grievance is that he had not used the telephone service for the bills which he was compelled to pay and the same must be decided by an independent authority. In a democracy governed by rule of law, no citizen shall be subjected to an arbitrary action without redress and a citizen cannot be compelled to pay higher amounts for the services which the Petitioner has not availed of or used. Under those circumstances, I am of the view that the dispute is concerned with the apparatus particularly because the dispute is with regard to the incorrect billing and it comes within the meaning of dispute concerning apparatus, otherwise the very purpose will be defeated and the citizen will be left with no option except to pay the arbitrary billing for no fault of him. Under these circumstances, I am of the view that Section 7B of the Act would apply to such situation and the dispute has to be referred to the arbitrator appointed by the Central Government in that regard.

2. The decision cited by Sri P. Sriramulu, learned standing counsel for the Respondent is not helpful to the Respondent for the reason that in that case the bill was issued for certain amount and subsequently it was revised and the revised bill was disputed and it was contended that the revised billing is violative of the principles of natural justice and the relief sought for is not to disconnect or remove the telephone and to collect the correct bill amount. There the contention of the Respondent itself was that the writ petition was not maintainable because alternative remedy is provided u/s 7B of the Act. In that context the learned Judge has dismissed the writ petition. With the respect, the view expressed by

the learned Judge does not apply to the facts of this case and even if it applies, I am not prepared to agree with the ratio.

3. The write petition is accordingly allowed and there shall be a direction to the 1st Respondent to make a reference to the arbitrator and it is open to the Petitioner and the Respondent to adduce evidence before the arbitrator will decide it according to rule. No costs.