
(1992) 04 NCDRC CK 0015

In the National Consumer Disputes Redressal Commission

ELECTRO FABRICS

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 28-04-1992

Acts Referred:

Citation : 1992 3 CPJ 439

Hon'ble Judges : S.K.Seth J.

Final Decision : Petition allowed

Judgement

1. THE relevant facts briefly stated are these: THE petition M/s. Electro Fabrics has a telephone connection No. 25765 located in Shop No. 5 in the Industrial Estate, Adhartal, Jabalpur. In the present position, it is claimed by the petitioner that the demand made by the telephone authority concerned of the Government of India vide supplementary bill dated 11.2.1987 (Annexure-P/1) for Rs. 10,500/- as arrears of rent charges for the period 21.8.76 to 31.5.87, was on the face of it unauthorised and illegal and it is in the interest of justice that the respondents including the authority concerned of the telephone department are restrained from taking any action against the petitioner in respect of the said telephone pursuant to the said demand.

2. NOW, by making a reference to Rule 434 of the Indian Telephone Rules, 1951, it is pointed out on behalf of the department concerned of the Government of India that the supplementary demand for Rs. 10,500/- was made by the telephone authority concerned from the petitioner in accordance with the scale of charges under Sub clause (a) of Clause (2) of Section III to the said Rule. The said section relates to scale of charges for connections beyond the local area in respect of both measured ratio and flat rate systems and Sub clause (a) thereof relates to telephone connections not exceeding 5 kms. of actual length beyond the local area. According to the said respondents, it was discovered after a lapse of several years that the telephone connection granted to the petitioner was situated at a distance of 3.65 kms. beyond the local area and as such the petitioner should have been charged an additional amount per annum by way of

increased rental. It was for the said reason that a supplementary bill for Rs. 10,500/- constituting the difference and covering the period from 21.8.1986 to 31.5.1987 was served on the petitioner in the year 1987. From a perusal of the record of the case we find that it is not in dispute that when the telephone connection in question had been installed in the premises of the petitioner, they were duly informed by the authority concerned of the telephone department as to what would be the amount of rental chargeable from them in respect of the same. It is also not in dispute that on the basis of the rental so levied, the petitioner paid the same regularly during all this period from 21.8.76 to 31.5.87. It might be that at the time of the initial levy, the amount of rental was wrongly fixed and did not take into account the provision regarding additional charges contained in Sub-clause (a) of Clause (2) of Section III to Rule 434. But, then, the petitioner could in no way be held responsible for the alleged wrong fixation of the rental. In the circumstances of the case, the department concerned of the Government of India was bound by the representation made by its telephone authority concerned to the petitioner at the time of the initial levy of the rental, and is estopped from making a demand for any additional amount with retrospective effect after a lapse of more than ten years.

In the above connection, we agree with the view expressed by the Bombay High Court in similar circumstances in *The Indian Resort Hotels Ltd. v. Sushil Prakash and Another* (AIR 1988 Bombay 13). The said case was a case in which the rent had been communicated on 29.1.74 and the same were not revised between the said date and the date on which the facilities were commissioned i.e. 17.12.1974. It was after a period of five years that the authorities determined the enhanced rent with retrospective effect. After making a reference to Sub-rule (5) of Rule 155 of the Post and Telegraphs Manual, Vol. XII, it was held by the High Court that it was not permissible for the telephone authorities to make any re-adjustment or revise rent or make any claim against the customers once the facilities were made over to the subscribers. It was accordingly held that as in the case before it the facilities were commissioned w.e.f. 17.12.74 and the rents had not been revised between 29.1.74 when the same had been communicated by the telephone authorities and the date of commissioning, it was not open for the authorities to modify and enhance the rent after a period of five years from the date of commissioning of facilities. It was held that the undertaking given by the party would not entitle the department to fix the final rent after a period of five years from the date of commissioning of the facility and demand an enhanced rent with retrospective effect.

3. IN our opinion, there is no reason why the same principle as has been spelt out by the Bombay High Court in its above said decision could not apply to the present case before us. As already pointed out above, in the circumstances of the present case too, the department concerned of the Government of India was bound by the representation made by its telephone authority concerned to the petitioner at the time of the initial levy of the rental, and was estopped from making demand of any additional demand with retrospective effect after a lapse

of more than ten years. For the reasons stated above, the petition is allowed. The demand made by the respondents from the petitioner vide the supplementary bill dated 11.2.1987 (Annexure-P/1) amounting to Rs. 10,500/- is quashed. It may be mentioned that while admitting the present petition on 15.2.88, this Court had granted a rule in favour of the petitioner to the effect that in the meanwhile the recovery of the amount of the supplementary bill dated 11.2.87 (Annexure-P/1) amounting to Rs. 10,500/- would remain stayed and that on the said account the telephone connection in question of the petitioner would not be disconnected. The said rule is made absolute in terms of the prayer made in the petition. It is, however, made clear that this order will not affect any revision in the rental made by the telephone authorities concerned with prospective effect in accordance with the Rules.

4. IN the circumstances of the case, there shall be no order as to the costs of this petition. Petition allowed.