
(1999) 09 NCDRC CK 0005

In the National Consumer Disputes Redressal Commission

EXECUTIVE ENGINEER, U.P.S.E.B.

APPELLANT

Vs

PRESIDENT, NAGAR PANCHAYAT

RESPONDENT

Date of Decision : 12-09-1999

Acts Referred:

Citation : 2000 3 CPJ 371 : 2001 1 CPC 14

Hon'ble Judges : K.C.Bhargava , D.D.Bahuguna J.

Final Decision : Appeal dismissed

Judgement

1. THIS is an appeal against the judgment and order dated 4.9.1999 passed by District Consumer Forum, Etah in Complaint Case No. 73/1997.

2. BRIEFLY stated the facts of the case are that the complainant, President, Nagar Panchayat, Sidhpura, Etah District deposited a sum of Rs. 24,835/- on 23.12.1985 for street light with the Executive Engineer, Distribution Division, U.P. State Electricity Board, Etah. An agreement deed was also deposited by the complainant, Nagar Panchayat, on 12.2.1986 in the office of Sub Divisional Officer, Aliganj, Etah. The complainant was informed that the matter relates to the Executive Engineer, Distribution Division, Kasganj, and therefore, the matter has been referred to him. The then Officer Incharge and the President wrote to the opposite parties on 14.2.1986, 17.3.1986, 23.4.1986, 17.5.1986, 9.7.1986, 23.8.1986, 28.10.1986, 7.6.1987, 15.2.1988, 23.5.1989, 19.1.1990, 22.9.1992, 5.1.1993 and 11.1.1993 by registered post for installation of the street light but so far the connection was not given by the opposite parties. The amount deposited with the Etah Executive Engineer was not transferred to Kasganj Executive Engineer and street lights connection was not provided. The claim was, therefore, lodged for refund of the amount deposited by the complainant alongwith interest. The case of the opposite party in the District Forum was that the town of Sidhpura comes under the jurisdiction of Kasganj Electricity Distribution Division and the amount deposited with the opposite party No. 1-Executive Engineer, Etah has not been transferred. The case of the opposite party No. 1-Executive Engineer, Etah was that jurisdiction lie with Kasganj and

the entire records have been transferred to Kasganj Division.

The District Forum, after hearing the case of the parties, decreed the claim of the complainant and ordered for refund of the amount of Rs. 24,835/- alongwith interest at the rate of 10% per annum from the date of deposit till the date of payment. A cost of Rs. 500/- was also allowed to be awarded to the complainant.

3. AGGRIEVED of this order, U.P. State Electricity Board has come in appeal. We have heard the learned Counsel for the two parties. The learned Counsel for the appellant has argued that the complaint is highly time-barred but we do not agree with the contention of the Counsel for the appellant because a perusal of the judgment of the learned District Forum will go to show that the amount was deposited in the year 1985 and right upto 1993 they have been writing to concerned Authorities for providing street light connection and till date of the complaint the amount as lying with the U.P. State Electricity Board. The purpose for which the amount was deposited was meant for the public utility service and inspite of the fact that the amount remained deposited with the appellant, the connection was not provided. This amounts to deficiency in service on the part of Electricity Board which is continuing till today. Cause of action is continues and, therefore, we hold that the complaint is not time-barred.

4. IN the memo of appeal it has been admitted by the appellant that the jurisdiction of Kasganj and the Etah Distribution Divisions had not been redefined and as such the connection could not be given because the amount deposited was transferred to the Headquarters of the U.P. State Electricity Board. It has also been stated in the memo of appeal that since the charges of installation have now escalated and the cost of material has also increased, therefore, it may not be possible to instal the connection. The points raised is irrelevant because for failure on the part of the appellant, the complainant-Nagar Panchayat, Sidhpura, has asked for the refund of the amount alongwith interest. We find that because of red tappism prevailing in the U.P. State Electricity Board, the public convenience for which the amount was deposited, was not provided to the Nagar Panchayat, Sidhpura. In case the Executive Engineer, Etah was not competent to instal the connection at Sidhpura, the Executive Engineer, Kasganj Division should have given the connection and in case the Executive Engineer, Etah could not have installed the connection, then he should not have accepted the deposit. In the circumstances we find that the order passed by the learned District Forum is perfectly right and need not be interfered. The appeal is, therefore, liable to be dismissed. The complainant is also liable to get cost of Rs. 2,000/- of this appeal. Order The appeal is dismissed and the judgment and order of the learned District Forum are confirmed. The appellant shall also pay a cost of Rs. 2,000/- to the complainant. Let compliance of this order be made within a period of two months from the date of this order. Let copy as per rules be made available to the parties. Appeal dismissed.