

(2002) 03 NCDRC CK 0029

In the National Consumer Disputes Redressal Commission

GASTO BEHARI PATRA

APPELLANT

Vs

CHIEF GENERAL MANAGER, CALCUTTA TELEPHONES

RESPONDENT

Date of Decision : 20-03-2002

Acts Referred:

Citation : 2003 2 CLT 687 : 2003 2 CPJ 27

Hon'ble Judges : S.C.Datta , S.Majumder , D.Karformas J.

Final Decision : Appeal dismissed

Judgement

1. VIDE order dated 28.8.1997 the Forum referred the disputed bill for Cycle 9/1996 to the Arbitrator under Section 7B of the Indian Telegraph Act with a direction to the Arbitrator to commence the proceeding before him within 45 days from the date of receipt of disputed bill and to conclude the proceeding within the subsequent two months. Certain other directions were also passed. Being aggrieved thereby, the petitioner has appealed. The learned Counsel for the appellant submits that it has become almost a routine affair to refer the dispute regarding excess billing of a telephone to the Arbitrator without itself examining and deciding the dispute on the basis of materials available before the Forum. He of course submits that in appropriate cases reference to the Arbitrator may be necessary, but it cannot be made as a matter of rule. The substance of his arguments is that the Forum itself should resolve the dispute regarding excess billing instead of referring the dispute to the Arbitrator. It appears that the self same point was raised before the Forum and the Forum by the impugned judgment discussed the matter threadbare and disposed of the questions raised therein. It may be remembered that the Consumer Forum is a special Forum established to provide for better protection of the interest of consumer and for the settlement of consumer disputes and the matter connected therewith. There is no dispute that this is a consumer dispute and as such the Forum has jurisdiction to examine the case. It may also be remembered that the Arbitrator is an expert in technical investigation of the dispute. Sometimes it may happen that excess billing may be the result of wrong or incorrect calculation of negligent act of concerned officials or because of incorrect reading shown by meter on

account of technical or mechanical fault. In our view such technical investigations are required to be carried out at the instance of authority upon hearing the contentions of both sides. The Arbitrator is a technically qualified authority. The Consumer Forum is required to dispose of a dispute within a time frame fixed by the statute. Sometimes examination of witness and record of evidence of both sides including cross-examination etc. is necessary for resolution of the dispute. Since the Consumer Forum is to try the matter in a summary way such purpose will be frustrated if cases are allowed to continue for an indefinite period. To sum up, we may observe that in appropriate cases the Forum can very well decide the dispute if it does not involve elaborate evidence of both sides. But in appropriate cases specially when a technical question arises it would be better for the Forum to refer the dispute to the Arbitrator because the Arbitrator is a qualified technical person and as such quite competent to determine the matter.

2. IN view of above we find no merit in the appeal which is hereby dismissed with the above observation. Appeal dismissed.