
(1998) 02 NCDRC CK 0028

In the National Consumer Disputes Redressal Commission

GENERAL MANAGER, HYDERABAD TELEPHONES

APPELLANT

Vs

D. STALIN BABU

RESPONDENT

Date of Decision : 07-02-1998

Acts Referred:

Citation : 1998 3 CPJ 187

Hon'ble Judges : S.Parvatha Rao , T.Ranga Rao J.

Final Decision : Appeals disposed of

Judgement

1. THESE three appeals are preferred by the opposite parties in C.D. No. 663/94, C.D. No. 306/94 and O.P. No. 723 /94 against the orders of the District Forum, Hyderabad dated 23.9.1997, 24.9.1997 and 25.9.1997 respectively allowing the said C.Ds. and O.P. preferred by the respondents in these appeals. The appellants only object to the further directions in the said orders that "no officer of the Hyderabad Telecom District shall be appointed as an Arbitrator".

2. THE learned Standing Counsel for the appellants submits that the said direction is un- warranted and that there cannot be any such restriction imposed in respect of statutory Arbitrator appointed under Section 7-B of the Indian Telegraph Act, 1885. THE learned Counsel for the appellants submits that the question is no longer res-integra and that it is covered by judgments of the High Court of Andhra Pradesh dated 23.3.1989 in W.P. Nos. 1295 and 1432 of 1989 Savatram Kanahyalal v. Union of India and Others, and A.P. State Wokf Board v. THE General Manager, Telecommunications, Hyderabad and Others, 1994 (3) ALT 536. In the first of the cases, M. Jagannatha Rao, J. (as the learned Judge then was of the High Court of Andhra Pradesh) after elaborately considering the legal position held that "an Arbitrator appointed under Section 7-B of the Telegraph Act, 1885 by the Central Government could be an official belonging to the Government and indeed an official belonging to the Telephone Department itself, and that such Arbitrator so appointed has to act in a judicial and fair manner and free from departmental bias, and that he can be removed by the Court in exercise of powers under Article 226 of the Constitution of India if a case of

actual bias being established or if a case of a reasonable apprehension and bias is made out by the aggrieved party". THE learned Judge also observed that the Arbitrator appointed under Section 7-B of that Act should necessarily give a reasoned decision, and that an un-reasoned award by him would be bad. This view has been upheld by the Supreme Court in M.L. Jaggi v. Mahanagar Telephones Nigam Ltd. and Others, AIR 1996 Supreme Court 2476. This is an authoritative pronouncement holding that Section 7-B of the said Act does not prohibit a department official being appointed. This decision was followed by the Hon"ble Mr. Justice B. Subhashan Reddy in A.P. State Wakf Board v. THE General Manager, Telecommunications, Hyderabad and Others, (supra). That was a case where a subordinate officer to the General Manager, Telecommunications (who was the Head of the Hyderabad Telecom District) was appointed as an Arbitrator under Section 7-B. THE learned Judge held as follows : "..... merely because the Arbitrator is a subordinate officer to the General Manager, Telecommunications, it cannot be presumed that he will act with bias or prejudice". In view of these rulings, we are satisfied that the further direction of the District Forum in the orders under appeal that no officer of the Hyderabad Telecom District shall be appointed as an Arbitrator is un-called for and we, therefore, direct that it shall be deleted. THEse three appeals are accordingly allowed only to the extent of deleting the following sentence from the orders appealed against: "It is further ordered that no officer of the Hyderabad Telecom District shall be appointed as an Arbitrator".

In other respects, the said orders have not been questioned by the appellants and, therefore, in other respects the orders under appeal stand. However, six months" time for completing the arbitration proceedings is extended by seven months from today i.e. upto 5th September, 1998. No costs Appeals disposed of.