(2005) 05 NCDRC CK 0032

In the National Consumer Disputes Redressal Commission

GIAN SINGH APPELLANT

Vs

Delhi Vidyut Board RESPONDENT

Date of Decision : 31-05-2005

Acts Referred:

Citation : 2006 1 CPJ 161

Hon'ble Judges : J.D.Kapoor , Mahesh Chandra , Rumnita Mittal J.

Final Decision : Appeal partly allowed

Judgement

1. THE complaint of the appellant seeking direction to the respondent who is a provider of electricity energy for not enforcing minimum payment rules because of the erratic electricity supply and also compensate the appellant for the loss of business suffered by him due to load shedding for 2 to 3 hours a day was dismissed vide impugned order dated 25.4.2001 passed by the District Forum. Feeling aggrieved, the appellant has preferred this appeal.

2. THE appellant has an industrial shed allotted by DSIDC to the weaker sections of society at Khyala and is running a factory there. THE respondent-DVB installed the electric meter for power connection and installed another meter for the use of light and charged rent and also enforced minimum payment rules. THE allegations against the respondents are that it is having monopoly on the distribution of cheapest hydro-electric, thermal and nuclear power and gas based power. It sends bills after a gap of two months and also charges minimum charges in spite of the fact that supply has become totally erratic and is virtually in mess for the last 5-6 years as large scale theft of electricity is being indulged in by Jhuggi dwellers and big industrial units in collusion with the respondent. THE appellant claimed that he never consumed electricity more than or equal to minimum slab imposed. It is further alleged that there being rampant power cuts and sometimes no power supply for 12 hours at a stretch and on account of load shedding for 2 to 3 hours a day, has caused immense loss of his business and in the result, he could not pay the electricity bills which accumulated to the tune of Rs. 2,33,672.

The allegations of frequent breakdown and the load shedding though have been denied by the respondent yet the plea has been taken that these breakdowns are due to the attached accessories, damages for excess overloading than actual rating/capacity which are quite beyond the control of the respondent in transmission and distribution system. However, whenever there is failure in supply it is immediately attended to and restored.

3. THE record produced by the respondent shows the details of power supply/ load shedding/power failure/breakdown of 11 KV lines of Chand Nagar feeder w.e.f. 17.7.1999 to 30.8.1999 which is feeding the area of the appellants premises and support the claim of the appellant-complainant. Consumers are concerned with the efficient service for which they pay consideration. Any fault, imperfection, shortcoming or inadequacy in the quality, nature and manner of performance which is required to be maintained by or under any law for the time being in force or has been undertaken to be performed by a person in pursuance of a contract or otherwise in relation to any service amounts to deficiency in service for which the service provider is liable to compensate the consumer as to the loss or injury suffered by him. At the same time, if a particular consumer is discriminated against, he is entitled for punitive damages.

4. IN the instant case, there was load shedding for a particular duration, in order to maintain the supply and to avoid breakdown that may cause more loss or harm to the consumer, consumer cannot claim compensation as to the loss or injury suffered by him due to such uniformally applied load shedding. Load shedding, failure or breakdown are sometimes results of excessive loading than the actual rate or capacity. This does not mean that provider of service can get away with deficiency in service, in the instant case, the appellant never consumed the electricity more than or equal to minimum slab in force. No provider of service which is deficient in service can be allowed to charge the consumer more than what he actually consumes merely because there is no provision for minimum payment. Such rules are applicable where there is no deficiency in service. On the one hand, the respondent has not denied that there are occasional failure or breakdown, may be for any reasons though the reasons in the instant case were due to attached accessories, damages for excess overloading that the actual rating/capacity which are quite beyond the control of the respondent while on the other hand it seeks the enforcement of the minimum payment rules. It is the duty of the respondent to check excess overloading as there is large scale theft of electricity by big industrial units and Jhuggis and for such transmission loss the regular registered consumer cannot be penalized. Taking overall view of the matter, we partly allow the appeal by directing the respondent to raise the revised bills of the electricity consumed by the appellant on the basis of actual consumption and not on the basis of minimum slab rules without levying any LPSC within one month. However, for the inconvenience and harassment suffered by the appellant due to highly erratic power supply, we feel inclined to award compensation Rs. 10,000 which shall be inclusive of cost of litigation. The appeal is disposed of in the aforesaid terms.

5. FDR/Bank Guarantee, if any, submitted by the appellant be returned to the appellant forthwith under proper receipt.

6. A copy of this order, as per the statutory requirement, be forwarded to the parties, free of charge and also to the concerned District Forum and thereafter the file be consigned to the Record Room. A copy be sent to all the Presidents of District Forum for circulation. Appeal partly allowed.