

(2005) 04 NCDRC CK 0034

In the National Consumer Disputes Redressal Commission

H.P.STATE ELECTRICITY BOARD

APPELLANT

Vs

ARSH CASTINGS PVT. LTD.

RESPONDENT

Date of Decision : 15-04-2005

Acts Referred:

Citation : 2005 2 CPR 36 : 2006 1 CPJ 157

Hon'ble Judges : K.S.Gupta , B.K.Taimni , P.D.Shenoy J.

Final Decision : Appeals dismissed

Judgement

1. THESE two appeals have been filed by both the parties, who were before the State Commission, where the complainant M/s. Arsh Casting Pvt. Ltd. (appellant in F.A. 645/2003) had filed a complaint alleging deficiency in service on the part of the respondent, H.P. State Electricity Board, (appellant in FA 562/2003).

2. BRIEF facts of the case are that the complainant M/s. Arsh Castings Pvt. Ltd. had applied for power connection for which the line had to be erected from Badripur sub station to the complainant's unit, for which an estimate of Rs. 6,29,762 was raised. It was deposited on 16.3.1990. As per the revised estimate of the respondent Electricity Board, the revised cost came to Rs. 6,25,292 hence excess amount of Rs. 4,490 was credited in favour of the complainant. Actual cost for erection of power line has been alleged to be only Rs. 4,18,167, hence the complainant demanded the balance amount from Rs. 6,25,292 along with interest. When the issue was not getting settled, a complaint was filed before the State Commission, who after hearing the parties allowed the complaint and directed the respondent to pay Rs. 92,000 from 1.4.1990 till the date of filing the complaint, i.e., 20.10.2000 along with interest @ 12% and interest @ 6% from the filing of complaint till realisation of amount along with cost of Rs. 5,000. Aggrieved by this order both the parties have filed these appeals before us. We heard the learned Counsel for both the parties at length. The most important document is at page 18 of FA No. 645/2003. These are the "estimates" and "actuals" for the erection of the above stated line from the sub-station to the complainant's unit, prepared by the Electricity Board. This document was before

the State Commission and its veracity had not been challenged. It has two columns - the "estimated amount" and the "actual spent". Comparing these two figures, we find item 1 - 18 in this chart, there is actual expenditure of Rs. 4,18,167.58. There is no mention of actual figures relating to labour cost and transportation charges, which as per estimate were Rs. 82,470 and contingency has been shown to be Rs. 2,370.20 ps. The case of the electricity board is that State Commission has not considered the "overheads" and other "misc. expenses". After going through this estimate, we find that there was no such provision made in the "estimate" and we cannot envisage the Electricity Board now coming up with a new plea, which was not inclined to agree with the appellant/complainant that only 15% of Rs. 4,18,167 being the actual expenditure, would go to the Electricity Board for labour + transport charges. Thus, in our view, the Electricity Board shall be entitled to Rs. 5,33,266.00 ps. for erection charges, as the actual expenditure against the estimated expenditure. An erroneous view seems to have arisen in the mind of the complainant because in the statement referred to above, word "difference" has been typed at a wrong place. Difference should cover "saving" and "excess" only. There can be no dispute that one can claim and is entitled to only the actual expenditure incurred.

Admittedly, the final amount available with the Electricity Board was Rs. 6,25,292 and after deducting the above stated amount, complainant shall be entitled to refund of Rs. 92,000 awarded by the State Commission. Hence, we see no merit in the appeal (FA No. 645/2003) filed by the complainant M/s. Arsh Castings Pvt. Ltd., which is dismissed. We also see no merit in the appeal (FA 562/2003) filed by the H.P. State Electricity Board as they raise new pleas which, in our view, are not maintainable/sustainable, hence dismissed.

3. IN the result both the appeals are dismissed. No order as to costs. Appeals dismissed.