

(2002) 11 JH CK 0027

In the Jharkhand High Court

Case No : Writ Petition (C) No. 2744 of 2001

Indian Forging and Stamping Co.

APPELLANT

Vs

Jharkhand State Electricity Board and Others

RESPONDENT

Date of Decision : 22-11-2002

Acts Referred:

Citation : (2002) 11 JH CK 0027

Hon'ble Judges : M.Y. Eqbal, J

Bench : Single Bench

Advocate : Ajit Kumar and D.K. Pathak, for the Appellant; V.P. Singh and R. Shankar, for the Respondent

Final Decision : Dismissed

Judgement

M.Y. Eqbal, J.—The petitioner-Company is a high tension consumer. It took electric connection having contract demand of 75 KVA which was enhanced to 100 KVA as per the HT Agreement dated 24.8.1999. The petitioner received AMG bill for the years 1996-97 and 1997-98 as per contract demand of 75 KVA. The petitioner again received a bill for AMG charges for the year 1998-99 as per enhanced contract demand.

2. Dissatisfied with the AMG bills, the petitioner submitted claim under Clause 13 of the agreement for the aforesaid years. All the claims made by the petitioner under Clause 13 of the agreement have been rejected by the concerned respondents in terms of the order dated 17.8.2000.

3. Mr. Ajit Kumar, learned counsel appearing on behalf of the petitioner assailed the impugned order as being illegal and without jurisdiction. Learned counsel submitted that there is no limitation for filing claim under Clause 13 of the HT Agreement and therefore rejection of the claims for the years 1996-97 and 1997-98 on the ground of limitation is illegal and mala fide. Learned counsel further submitted that while disposing of the claim the concerned respondent has totally ignored Clause 4 (b) of the notification which specifies that every bill shall

contain a Clause that the claim has to be made within the stipulated period of 90 days". Learned counsel further submitted that the concerned respondents while rejecting the claim failed to take into consideration the mandatory provision of the Tariff and also the HT Agreement.

4. Admittedly the AMG bills for the years 1996-97 was raised on 28.4.1997 and the AMG bill for the year 1997-98 was raised on 20.6.1998. The petitioner paid the amounts covered by the bills in 1997 and 1998 without raising any objection with regard to the correctness of the bills or without making any claim under Clause 13 of the HT Agreement. The petitioner was again served with AMG bill dated 19.7.1999 for the period 1998-99. The petitioner after making payment of the aforesaid bill amount, lodged a claim under Clause 13 of the HT Agreement on 5.8.1999 i.e. within 90 days from the date of the bill but while making claim under Clause 13 of the Agreement against the bill for the year 1998-99 the petitioner also included the claim as against the AMG bills for the years 1996-97 and 1997-98.

5. As noticed above so far the AMG bills for the years 1996-97 and 1997-98 are concerned, the petitioner having been satisfied with the bills, paid the amount without lodging any claim under Clause 13 of the Agreement. It is only while lodging the claim under Clause 13 of the Agreement as against the AMG bills for the years 1998-99, the petitioner included its claim against the aforesaid two bills also. In my opinion, therefore the concerned respondents, namely, the General Manager-cum-Chief Engineer, rightly held that the claim under Clause 13 of the Agreement, for the financial years 1996-97 and 1997-98 was barred by law of limitation and the same was not entertainable having been filed much beyond period of 90 days from the date of the bills.

6. So far the claim under Clause 13 of the Agreement in respect of the bill for the years 1998-99 is concerned, it was held that the petitioner was not entitled to any relief under Clause 13 of the Agreement. The relevant portion of the finding recorded by the General Manager-cum-Chief Engineer is reproduced hereinbelow :

"From the perusal of records and keeping in the view the submissions made by the parties it is advisable to refer Board's notification No. 810 dated 29.7.1994 which under Clause 3 (b) provides that the bill, served for the full amount of short fall in AMG charges shall contain a clause that "If the consumer challenges the demand, made, he may submit a claim under appropriate clause of Agreement within a period of three months (90 days) after due date of the bill with details on the basis of which relief has been claimed in Board's prescribed proforma." On examination of the claims petition filed by the consumer it is evident that the claim for the year 1996-97, 1997-98 which have been filed on 5.8.1999, which does not fulfill the criteria led down in the above notification. As such the claim filed by the petitioner consumer for the year 1996-97 and 1997-98 are grossly neither entertainable nor admissible, whereas the petitioner consumer has made 100% payment of AMG bills for the aforesaid financial years.

On scrutiny of the claim petition filed by the petitioner consumer for the year 1998-99, it transpires that the consumer has filed the claim on 5.8.1999 making payment against the AMG bill for Rs. 59,995/- by the due date. From the details of KVA drawl and billed it is apparent that in the month of 1/99, 101.04 KVA was recorded in the meter, which is more than 110% of the contract Demand i.e. 75 KVA. Board has rightly raised the bill treating the exceeded demand for the whole financial year. The initial contract demand of the consumer, as per agreement, is 75 KVA and on this demand, consumer is required to consume 139613 KWH. From the perusal of details of units consumed for the financial year i.e. 4/98 to 3/99, it is 154,213 KWH, which transpires that the petitioner-consumer has covered the AMG Units and the charge. So in my opinion no relief is admissible in AMG charges for the year 1998-99.

So far granting relief in demand charges for the year 1998-99 does not arise. As the consumer has covered KVA against the demand charge."

7. Admittedly initially the contract demand of the petitioner was 75 KVA which was subsequently enhanced to 100 KVA. It appears that the units consumed by the petitioner for the financial years 1998-99 was 154213 KWH. As against the contract demand of 75 KVA the consumer is required to consume 139613 KWH, the authority rightly held that the petitioner has covered the AMG units and the charges and no relief can be granted to the petitioner under Clause 13 of the Agreement. It is worth to mention here that the claim under Clause 13 of the Agreement was only against KVA charges and not the remission on the ground of interruption in the supply of energy. I, therefore, do not find any gross illegality in the impugned order passed by the General Manager-cum-Chief Engineer rejecting the claim of the petitioner under Clause 13 of the HT Agreement.

8. For the aforesaid reasons, I do not find any merit in this application which is accordingly dismissed.