

(2015) 02 NCDRC CK 0147

In the National Consumer Disputes Redressal Commission

Case No : 338 of 2013

Jaipur Vidyut Vitaran Nigam Ltd.

APPELLANT

Vs

Mukesh Mali S/o Girraj Mali

RESPONDENT

Date of Decision : 09-02-2015

Acts Referred:

Citation : 2015 6 AllMR 57

Hon'ble Judges : K.S. Chaudhari

Advocate : Gautam Gupta, Aditya Madan

Judgement

1. This revision petition has been filed by the petitioner against the order dated 26.10.2012 passed by the State Consumer Disputes Redressal Commission, Delhi (in short, the State Commission) in Appeal No. 1858/2011 JVVNL Vs. Mukesh Mali by which, while dismissing appeal, order of District Forum allowing complaint was upheld.

2. Brief facts of the case are that Complainant/respondent had electricity connection from OP/petitioner and OP issued bill to the complainant for the month of February, 2010 and demanded Rs.22,347/- on the basis of report of Electricity Department. Alleging deficiency on the part of OP, complainant filed complaint before District forum. OP resisted complaint and submitted that meter was inspected and as per inspection report demand was raised and prayed for dismissal of complaint. Learned District Forum after hearing both the parties, allowed complaint, quashed demand and further allowed compensation of Rs.1,000/- and litigation cost of Rs.1,000/-. Appeal filed by OP was dismissed by learned State Commission by impugned order against which this revision petition has been filed.

3. None appeared for the respondent even after service of notice and he was proceeded ex-parte.

4. Heard learned Counsel for the petitioner and perused record.

5. Learned Counsel for the petitioner submitted that order passed by learned State Commission is not speaking order; hence, revision petition be allowed and impugned order be set aside and matter may be remanded to the learned State Commission to dispose of appeal by speaking order.

6. Order of learned State Commission runs as under:

The Ld. Forum below has been passed the impugned order after considering the entire facts of the case and examining the evidence in detail. Accordingly, we do not find it necessary to re-consider the entire fact and evidence of the case. Keeping in view the facts and circumstances of the case, we do not find any error in the order dated 19.7.2011 as passed by the Ld. District forum, Sawai Madhopur.

Since the Ld. District Forum has considered the facts on record in the correct perspective, accordingly, we do not find any basis to interfere with the same. Even otherwise, we do not find any merit in the appeal, even on merits.

7. This order neither contains facts of the case, nor contains grounds taken by the petitioner in memo of appeal, nor contains any decision on those points and in such circumstances; this order cannot be stated to be a speaking order.

8. Honble Apex Court in (2001) 10 SCC 659 HVPNL Vs. Mahavir observed as under:

1. In a number of cases coming up in appeal in this Court, we find that the State Consumer Disputes Redressal Commission, Haryana at Chandigarh is passing a standard order in the following terms:

We have heard the Law Officer of HVPN appellant and have also perused the impugned order. We do not find any legal infirmity in the detailed and well-reasoned order passed by District Forum, Kaithal. Accordingly, we uphold the impugned order and dismiss the appeal.

2. We may point out that while dealing with a first appeal, this is not the way to dispose of the matter. The appellate forum is bound to refer to the pleadings of the case, the submissions of the counsel, necessary points for consideration, discuss the evidence and dispose of the matter by giving valid reasons. It is very easy to dispose of any appeal in this fashion and the higher courts would not know whether learned State Commission had applied its mind to the case. We hope that such orders will not be passed by the State Consumer Disputes Redressal Commission, Haryana at Chandigarh in future. A copy of this order may be communicated to the Commission.

9. In the light of above judgment, it becomes clear that Appellate Court while deciding an appeal is required to deal with all the aspects and arguments raised by the appellant and as learned State Commission has not dealt with any facts of the case and arguments of the appellant, it would be appropriate to remand the matter back to the learned State Commission for disposal by speaking order after

dealing with all the contentions and arguments raised by the petitioner.

10. Consequently, revision petition filed by the petitioner is allowed and order dated 26.10.2012 passed by the State Consumer Disputes Redressal Commission, Rajasthan in Appeal No. 1858/2011 JVVNL Vs. Mukesh Mali is set aside and matter is remanded back to the learned State Commission for deciding it by speaking order after giving an opportunity of being heard to the parties.

11. Parties are directed to appear before the learned State Commission on 16.03.2015.