(2010) 08 NCDRC CK 0042

In the National Consumer Disputes Redressal Commission

KARNATAKA ELECTRICITY BOARD APPELLANT

Vs

S.A. Bhagawan Setty RESPONDENT

Date of Decision : 11-08-2010

Acts Referred:

Citation : 2010 0 CTJ 998 : 2010 0 NCDRC 124 : 2010 3 CPJ 414

Hon'ble Judges : Ashok Bhan , Vineeta Rai J.

Advocate : Saurabh Suman Sinha , Devashish Bharuka , B.S.Sharma , B.V.Bhandarkar

Judgement

1. KARNATAKA Electricity Board (now known as BESCOM) Petitioners in this case has come in revision against the order of the District Forum, upheld in toto by the State Commission to refund with interest an amount of Rs.76,608/- alongwith interest to S A Bhagwan Setty (Respondent in this case).

2. BRIEFLY, the facts of the case according to the Petitioners are that the Respondent had obtained from the Petitioners a low tension power line for running a Cotton Ginning and Pressing Factory at Chitradurga since 1985-86. Due to non-availability of raw material for the factory, Respondent requested the Petitioner to permanently disconnect the power supply on 16.04.1988. In response to the request, Petitioner disconnected the power supply on 22.04.1998. As per the scheme under the relevant Regulations of the Karnataka Electricity Board Electric Supply Regulations 1988, there is a requirement of 3 months notice by a customer or minimum charges payable. Because, the Respondent failed to give three months notice to disconnect electricity, the Respondent was required to pay minimum charges for three months at Rs.76,680/- which was collected from the Respondent on 22.04.1998 (Regulation 33.05 of the said Regulations). Respondent was subsequently refunded the security deposit paid by him at the time of obtaining the electricity connection of Rs.86,311/- on 29.07.2000. Respondent while confirming that he had requested for disconnection of electricity on 22.04.1998, stated that the Petitioners could not legally demand Rs.76,680/- and the Respondent was forced to pay the

amount, so that the Petitioners would refund him the large security deposit of Rs.86,311/-. However, even then the Petitioners did not refund the security deposit amount till ordered to do on 30.07.2000 by the Vidhyut Adalat. However, the Vidhyut Adalat, did not issue any directive regarding returning the amount of Rs.76,682/- on grounds of lack of jurisdiction in the matter.

The Respondent therefore filed a complaint in the District Forum against the Petitioners on the grounds of unfair trade practice and deficiency in service. The District Forum in its detailed order ruled in favour of the Respondents, on inter-alia the following main grounds: 1. There are no Regulations stipulating that before terminating the agreement, a consumer has to pay three months minimum charges. 2. If the consumer wants to terminate the contract in the extended period, there is NO need to pay the line minimum charges. 3. On facts, the power supply commenced in 1985 and was disconnected in 1998. In view of Regulation 33.03, the agreement was for a period of 2 years and thereafter was extended by virtue of Clause 33.04. Regulation 33.04 implies that whether it is an initial agreement or an extended agreement there has to be an agreement specifying a particular period. In the absence of this, as in the present case the question of three months advance notice being given by the Respondent (Consumer) does not arise. 4. Since the Petitioners have kept the deposit amount of Rs.86,311/- from April 1998 to July 2000, they are liable to pay interest at 18% per annum.

3. FURTHER, the District Forum ordered Petitioners to refund the minimum charges collected by them at Rs.76,680/- with interest on the said amount at 18%, in addition to Rs.5000/- as compensation for mental agony and Rs.2000/- as litigation cost. Aggrieved by this order, the Petitioner filed an appeal before the State Commission, which was dismissed and the order of District Forum was upheld in toto.

4. LEARNED Counsel for both the parties appeared before us. Counsel for the Petitioner represented that the learned Fora below had failed to appreciate the fact that Regulations 30.01, 33.05 and 35, read together makes it clear that the consumer would be liable to pay minimum charges for three months, if he fails to give three months notice. Further, absence of any agreement during this extended period has no relevance upon the requirement for payment of minimum charges. We have considered the evidence on record as well as the oral submissions made by the Ld Counsels. Regulation 33.05 only states that during the agreement period (initial or extended), the Board or Consumer is at liberty to terminate the agreement by giving at least three months notice. It does not state that if the consumer fails to give three months advance notice he will have to pay three months minimum charges in lieu thereof. Counsel for the Petitioner when asked by us, was unable to show whether there was any other Regulation which has such a stipulation. Apart from this, the contentions of the Counsel for the Petitioner that even if there is no agreement in the extended period, the consumer would still be required to pay minimum charges for three months has

been effectively countered by the District Forum in its comprehensive and well-reasoned order on this issue, wherein, it is stated that even for the extended period there has to be an agreement specifying the period. Since the Counsel for the Petitioner could not produce any evidence to the effect that a specific agreement was made between the parties for the extended period, there is no question of the Consumer (the Respondent in this case) giving three months advance notice. In view of these facts, we find no reason to interfere with the impugned order as well as the order of the District Forum so far as the question of refund of minimum charges of Rs.76,680/- is concerned. However, we feel that the rate of interest of 18% per annum is high and we are inclined to reduce it to 9% per annum. With this modification we confirm the impugned order. Ordered accordingly.