(1995) 05 NCDRC CK 0051

In the National Consumer Disputes Redressal Commission

Maharashtra State Electricity Board , DODANI STEEL. INDUSTRIES	APPELLANT
Vs	
Maharashtra State Electricity Board , DODANI STEEL INDUSTRIES	RESPONDENT

Date of Decision : 17-05-1995

Acts Referred:

Citation : 1995 2 CLT 677 : 1995 2 CPC 283 : 1995 2 CPJ 194 : 1995 2 CPR 552

Hon'ble Judges : G.G.Loney , M.G.Gavai J.

Final Decision : Appeal allowed

Judgement

1. THESE two counter appeals arise out of order of Dist. Forum, Wardha dated 19.3.1993 passed in Complaint No. 80/91. Appeal No. 359/93 is preferred by complainant claiming more compensation whereas Appeal No. 240/93 is filed by the opp. party challenging the impugned order.

2. SHORTLY stated the facts are that the complainant is running fabrication industry at Wardha Dist. The opp. party Maharashtra State Electricity Board (for short MSEB) had agreed to supply electricity to complainant''s factory. Undisputedly, the complainant has been the user of electricity for his factory from the opp. party since long. It is also not in dispute that the complainant paid all dues of electricity till October,1990. It is also admitted that on 30.11.90 Asstt. Engineer with Dy. Engineer of MSEB visited the complainant''s factory and recorded electric reading. It alleged by the MSEB that seal on the electric meter was found broken. It is admitted that on that date the said Engineer put his lock on the meter and replaced a new meter on 5.1.91 and the key was with the Engineer. The present complaint has been filed by the complainant alleging that the MSEB had submitted the electricity consumption bills to the complainant for the month of Dec. 1990 & Jan. 1991 showing the average consumption and illegally added extra units which were not consumed. Precisely, it is alleged by the complainant that the reading of the meter on 30.12.90 show the consumption of 14,200 units. The complainant was submitted the bill for Rs.

77,307/- showing the total consumption of 25,720 units. The complainant therefore alleged that he was required to pay for additional amount of 11,520 units although he has not consumed those units. However, according to complainant due to threat of disconnection of electricity he paid the entire bill on 18.1.1991 under protest Another grievance of the complainant is that even after the installation of new meter on 5.1.91 the bill for the month of Jan. 1991 issued to him was showing the consumption of 45,024 units. The total bill it for Rs. 92,307/-. The complainant alleged that the said bill included 19,367 extra units not consumed by him and for that purpose he was required to pay Rs. 31,330/- more. The third grievance of the complainant is that he was unnecessarily charged Rs. 1211.88 and Rs. 150/- towards D.P. charges, although he was not liable to pay them. The fourth grievance of the complainant is that an amount of Rs. 3406.90 has been wrongly deducted from his security deposit, towards interest for the year 1991. The complainant alleged that the aforesaid act was not in accordance with the rules of MSEB. The fifth grievance of the complainant is that the electricity board has been recovered from him wrongly Rs. 18,568.93 in Aug. 1991 towards arrears of D.P. charges.

The complainant alleged that an amount of Rs. 54,667.71 has been wrongly recovered from him and therefore it amounts to deficiency in the service. The complainant therefore claimed Rs. 45,000/- towards compensation and refund of Rs. 54,667.71.

3. THE complainant''s claim was opposed by the MSEB by filing the written version. THE opp. party admitted the aforesaid fact and submitted mat there was no deficiency in their service. THE opp. party further submitted that the electric meter installed at the complainant''s factory site was found tampered with in the inspection on 30.11.90 and accordingly new meter was replaced on 5.1.1991. It is also pointed out by the MSEB that the complainant committed an offence under the Electricity Act for not maintaining the electric meter in proper condition, and therefore there MSEB wanted to report the matter to police, but since the complainant admitted in writing to pay the arrears no further action was taken. It is further submitted that all the assessment made by the board in relation to the bills of electricity consumption to complainant are proper and therefore the complaint requires to be dismissed The plea adopted by the MSEB found favour with the Distt. Forum and by the impugned order the complainant''s part claim has been rejected and the MSEB was directed to adjust Rs. 24,092.54 from the complainant''s bills if any from recovery dues. Feeling aggrieved therefore, the consumer approached this commission in this appeal.

4. WE have heard Mrs. Padolay, Advocate, for appellant and Shri Deshmukh, Advocate, for respondent. WE have given our anxious consideration to the rival claims of both the parties. The learned Advocate, for appellant has contended that the National Commission in the case of Y.N. Gupta v. DESU (Jan. Vol-I (1993) CPJ pg. 25 (NC) has held that: (i) It was a deficiency in service that the bills for electrical consumption were not prepared and served at the appointed

time in accordance with the billing cycle and thereafter harassing the consumer with heavy arrears bills. (ii) It was deficiency in service to have raised bills without actual meter reading. (iii) It was deficiency in service to raise the arrears bill without details of the periods to which the arrears pertained. (iv) It was deficiency in service to served the bills on the consumer on Sunday. (v) WE cannot imagine as to how the respondent expects consumers to find funds of such magnitude at short notice even if the bills is correct.

The aforesaid proposition of law has been laid down by the National Commission on a complaint of consumer alleging the excessive bills for electrical consumption. It is therefore contended by the learned Advocate for appellant that the ratio of the aforesaid decision clearly applies to the facts of this appeal. In our view, there is considerable substance in this submission: It is an admitted fact that the electric meter at complainant''s premises was found defective and it was actually replaced on 5.1.91. The bill for the month of Dec., 1990 for the amount of Rs. 77,307/- was admittedly prepared not on the basis of actual reading, but on the basis of average consumption of units. The most important fact is that the said bill for 25,720 excess units are shown to have been charged although the Asstt. Engineer found only the consumption of 14,200 units. Thus, it is very apparent that the bill for the month of Dec, 1990 has been raised ignoring the actual meter reading. Subsequently, the bill for the month of Jan., 1991 is also incorrect since as against the actual consumption of 19,367 units shown to have been consumed by the complainant on the basis of average consumption of units. It is therefore apparent that the complainant has been charged Rs. 31,330/- for those units although the complainant did not actually consume the units shown in the bills. Thirdly, the complainant has been wrongly charged Rs. 1361.80 for D.P. charges. Likewise, the MSEB is also deficient while deducting Rs. 3406.90 from the total interest of security deposit of the complainant for the year 1991. WE see no reasons for this deduction. Lastly, contrary to rules, the complainant has been issued notice in the month of Aug.1991 for arrears of D.P. charges. Thus, we find that the complainant has been coerced by the MSEB in this case taking undue advantage of his need for electricity which he needed for running fabrication factory. It clearly appears that the statement of tile complainant was obtained by the officers of the MSEB to suit their purpose to justify the wrong billing. It has been contended by the learned Advocate for the MSEB that the complainant was found to be guilty inasmuch as he was found to have tampered with the seal of electric meter. Assuming that the meter was found tampered, there is no evidence as to who tam pered. it. Whether the complainant tampered it or whether the MSEB employee tampered it is not clear from due submissions of MSEB. It is interesting to note that when the Asstt. Engineer of MSEB visited the factory premises on 30.11.90 he put his own lock to the electric meter room and the keys were with him. We fail to understand when his was done in the month of November, 1990 how the hefty bill can be raised in the subsequent month of December, 1990 bill when the meter was defective for that period. In our view, charging a bill for

11,520 extra units is nothing but an act of negligence in the service. Moreover, there is no evidence on record to show that the complainant had tampered with electric meter. The MSEB proceeded on the assumption mat the complainant has tampered with the electric meter and obtained from his favourable statement to suit the purpose of the MSEB. The MSEB has adopted a very funny plea and tried to show that it has been very kind to the complainant as no report was made to the police for initiating criminal proceedings against the complainant on his assurance to pay the dues of the consumption of the units as per the assessment by the board. The submission of the board is ridiculous inasmuch as if the complainant had committed an offence and MSEB had taken its cognizance then in our view the M.S.E.B. had failed to discharge its duties in prosecuting a criminal on his willingness to pay the arrears. This fact demonstrate that the complainant was being pressurised by M.S.E.B. to certain extent to agree for the payment of inflated arrears. Therefore, in our view, deficiency in the service of the M.S.E.B in this case is seen at every stage. Lastly, we find that even though the factory of the complainant was closed yet he was charged the amount of Rs. 24,092.54 for the consumption of electricity. In our view this finding of Distt. Forum clinches the issue of; deficiency in the service of opp. party. We further find that if it is the case of M.S.E.B that the complainant interfered or tampered with electric meter with a view to gain advantage of meter reading and when the meter was defective, the M.S.E.B. was free to refer the dispute to the electrical Inspector for his decision under the provisions of the Electricity Act. But instead of adopting the legal course available under the Indian Electricity Act M.S.E.B have taken short cut and obtained the statement of the complainant to make payment of electricity bills without actual meter reading. We are therefore satisfied from the facts and relying on the ratio of the decision of the National Commission mentioned above that deficiency in the service of die M.S.E.B has been fully established.

5. WE therefore find that apparently the M.S.E.B has charged the complainant for the consumption of 11,520 units for the month of December, 1990 and 19,367 units for the month of January,1991 without actual reading. Similarly, the complainant has been charged Rs. 1361.88 as D.P. charges and wrongly recovered Rs. 3406.90 towards interest on security deposit and thus caused to the complainant a loss of Rs. 84,667.71. The complainant has also claimed Rs. 45,000/- towards compensation. WE find that the complainant deserves for refund of Rs. 54,667.71 which has been recovered from him without any justification. However, we do not agree that the complainant has made out a claim for the compensation of Rs. 45,000/-. Hence we are unable to accept the complainant''s claim for compensation and pass the following order: ORDER Appeal filed by the complainant being No. 359/93 is allowed. The M.S.E.B. is directed to pay Rs. 54,667.71 to complainant with interest @ 18% from 4.1.1991. The amount should be adjusted in its future electricity bills. Appeal No. 240/93 filed by the M.S.E.B. is hereby dismissed. The order of the Distt. Forum for the payment of compensation of Rs. 24,092.44 is substituted with the

amount of compensation of Rs. 54,667.71 as above. The complainant also be paid Rs. 500/- as costs in each appeal. The M.S.E.B. is directed to pay complainant aforesaid amount and costs within 30 days from the receipt of this order. Appeal No. 359/93 allowed. Appeal No. 240/93 dismissed.

