
(1994) 05 DEL CK 0119

In the Delhi High Court

Case No : Civil Writ Petition No's. 2773 of 1986

Mohan Exports (I) Pvt. Limited and Another

APPELLANT

Vs

Delhi Electric Supply Undertaking and Others

RESPONDENT

Date of Decision : 01-05-1994

Acts Referred:

Citation : (1994) 3 AD 3 : (1994) 29 DRJ 442

Hon'ble Judges : K. Shivshankar Bhat, J

Bench : Single Bench

Advocate : Y.P. Narulla and A. Ahlawat, for the Appellant;

Judgement

K. Shivashankar Bhat, J.

(1) The petitioner questions the electricity bills issued in respect of two meters - (i) K.120027 and (ii) 120029, in the month of September, 1986.

(2) According to the petitioner, in the month of July 1986, petitioner had received a bill in respect of the meter No.120027, for a sum of Rs.76,257.11 (Annexure I). This bill gave the consumption charges as Rs. 10,617.70. However, under the head, "Miscellaneous charges", a sum of Rs.62,508.19 was claimed. A few more such sums under different heads were also claimed. But the bill nowhere claimed any sum towards any arrears; in fact, the column under the head "arrears" was left blank. Petitioner states that on a representation made, the concerned officer ordered to amend the bill, because, there was no occasion to collect any miscellaneous charges from the petitioner. Thereafter a bill was issued (Annexure A) in September, 1986. The entire sum of Rs.76,257.11 claimed in the earlier bill was shown as arrears. An amount of Rs.10,364.72 was adjusted in this bill and accordingly a sum of Rs.71,258.89 was claimed. In spite of the representation of the petitioner, the bill was not corrected and hence petitioner wrote a letter dated 8.12.1986 (Annexure "C") pointing out the mistake in the bill. Petitioner questions the correctness of this bill. Writ petition was filed on 16.12.1986.

(3) It has to be noticed here that in this letter (Annexure "C) petitioner did not say that the first bill issued in July 1986 was sought to be corrected and order was made by the concerned Engineer to modify/revise the bill. Whether petitioner paid the admitted part of the said bill also is not forthcoming in the writ petition.

(4) In the reply affidavit, in response to the writ petition, the respondents stated that the said meter 120027 remained defective for the period 4.7.1979 to 3.12.1980 and the assessment was made for the said period, on the basis of consumption of new meter from 31.12.1980 to 1.3.1982. It is further averred that during the period 31.12.1980 to 12.3.1983, respondent omitted to charge for 38060 units and that petitioner was short charged for 25150 units consumed up to November, 1984. Thus for the total 96,391 units, a bill for Rs.76,257.21 was levied for July, 1986. This Explanation is not supported by any evidence. The bill for July, 1986 now here refers to any arrears of short-levies. It refers to "Miscellaneous charges".

(5) When huge arrears are claimed for an anterior period of several years on diverse grounds, respondent should have informed the petitioner of the basis of the claim in detail so that petitioner could explain away any wrong claim made against it. Even otherwise, principles of natural justice require that petitioner should have been given an opportunity to meet the claim against it. If actually bills had been sent earlier for these periods, then question of limitation also shall have to be considered, in the light of the decision of this Court in Municipal Corporation of Delhi (DESU) Vs. H.D. Shourie, .

(6) It is not possible for this court to go into the disputed questions of fact. Investigations into the registers of the respondents will be necessary as to decide the respective cases pleaded. In these circumstances, I set aside the impugned bills in respect of Meter (K.No. 120027) and direct the respondents to issue a fresh bill with a letter explaining the basis of the claim and then give an opportunity to the petitioner to show cause as to why the bill shall not be enforced. The Competent Officer of the respondent shall decide the dispute, by reference to the registers of the respondents with regard to this meter and the burden to sustain the claim in the bill shall be on the respondents.

(7) The petitioner is also a consumer under another Meter (K.No.120029). All the impugned bills in respect of this meter clearly disclose that the meter was defective. In fact, meter reading itself does not disclose any figure. There is also a note "MF" (Meter Faulty) in a few bills. Therefore, the case is clearly covered by the decision of this court in H.D. Shourie Vs. Municipal Corporation of Delhi and Another, as affirmed by the Division Bench in Lpa 106 of 1987 (decided on 17.12.1993). The dispute shall have to be referred to the Electrical Inspector, who has to determine the amount payable for a period not exceeding six months, in the manner explained by this court.

(8) In the result, the writ petition is allowed. All the impugned bills are quashed

with liberty to the respondent to take action in the light of this order. Rule made absolute.