(1997) 02 NCDRC CK 0015

In the National Consumer Disputes Redressal Commission

NATIONAL CONSUMERS AWARENESS GROUP (REGD.) APPELLANT

Vs

ADMINISTRATOR, WATER SUPPLY METER RESPONDENT

Date of Decision : 07-02-1997

Acts Referred:

Citation : 1997 1 CLT 706 : 1997 1 CPJ 299 : 1997 1 CPR 510

Hon'ble Judges : J.B.Garg , Sada Nand , P.Ojha J.

Final Decision : Complaint dismissed

Judgement

1. NATIONAL Consumer Awareness Group (Regd.), Chandigarh has filed the present complaint under the Consumer Protection Act, 1986 against the Senior Accounts Officer (Rents), Water Supply Meter, Union Territory, Chandigarh, alleging that the respondent has been charging Rs. 130/- as security for water meter provided by the Government from the domestic consumer; that they are not paying any interest against the amount so deposited as security. It is contended that the consumer is entitled to interest @ 12% on this amount. Receipt No. 1 from Book No. 28460 dated 28.6.88 and Receipt No. 71 from Book No. 28460 dated 12.7.88 issued in favour of Dev Raj Gupta and Rakesh Kumar respectively have been attached in support of the contention.

2. THIS application was resisted by the respondent on the ground that the security of Rs. 130/- being charged by the Department is in accordance with the Water Bye-Laws. Rule 5 Clause v(a) as amended by the Chandigarh Administration vide Gazette Notification dated 6.8.73 which reads as under: (a) "In addition to the cost of connection referred to in Clause (iv) the applicant shall deposit in cash as security on the following scale before a connection is given: Size of the meter Amount of security deposit "

or Rs.100/- 15 milimeters labour charges Rs.30/- (b) The security amount is refundable only at the time of close of water connection. (Copy of Bye-Laws enclosed). There is no provision under the Water Bye-Laws that interest is payable on the security of Rs. 100/-. At the time of arguments the learned Counsel for the respondent has told that the security is being charged by the department under the Bye-Laws applicable in this case and in case interest is paid by the Administration to the consumer the same will ultimately be reflected in the cost of water charges being levied by the administration. He has also told that in case of statutory provision made by the Government the Consumer Fora are not competent to vary the amount as the Administration takes into account the income and expenditure etc. as laid down in the Bye-laws while demanding such security. Out of Rs. 130/- being paid by the consumer, it is evident from the Bye-laws mentioned above that only Rs. 100/- is for security and Rs. 30/- pertain to labour charges incurred by the Administration for providing the connection and it was not specific part of the security.

The learned Counsel for the complainant has referred to M/s. Jagdamba Paper Industries (Pvt.) Ltd. and Others v. Haryana State Electricity Board and Others, AIR 1983 SC 1296 where the proposal for enhancement of security in respect of meters was under consideration of the Haryana State Electricity Board but when it was found that the meters were installed prior to the decision of the Board for enhancement of the security, the Board was directed to reduce the escalation by 50%. In this case there is no enhancement and thus the question under consideration is quite different. The learned Counsel for the complainant has also referred to Rustom Cavasjee Cooper and Others v. Union of India, AIR 1970 SC 564, the aforesaid case related to taking over of a banking Company by the State and thus the issue under consideration was obviously altogether different. The learned Counsel for the complainant has also drawn our attention to House of Dubary v. Punjab National Bank, II (1996) CPJ 223 (NC) where interest for the period 1979 to 1986 was held payable. The aforesaid case related to an FDR which was with the Punjab National Bank and it did not relate to security as the case now in hand.

3. THE Government Pleader has referred to Madras Provincial Consumer Association v. Department of Telecommunications, I (1991) CPJ 479 (NC), wherein the National Commission has held that the tariff rates fixed under Section 7 for the Indian Telegraph Act read with Rule 434 of the Indian Telegraph rules are statutory in character and their reasonableness cannot be gone into even by a Court exercising jurisdiction under Article 226 of the Constitution since those rates are decided as policy matters in the process of fiscal planning. In this case too the security is being charged under the Water Bye-laws of Chandigarh Administration. THE law laid down by the National Commission in this regard is applicable to this case. Besides this the complaint has been filed by National Consumer Awareness Group (Regd.), Chandigarh and there is no resolution of it for filing this complaint in this Court nor there is any complaint of individual who has approached the National Consumer Awareness Group for filing this application. The only document attached with the complaint is a certificate to the effect that National Consumer Awareness Group is a registered body and it contains the names of the members of its office bearers. No doubt a list of 18 persons has also been placed on record who have deposited water security for water meters @ Rs. 130/- but none of them is complainant before this

Commission nor they have lodged any complaint with the National Consumer Awareness Group for taking up the matter in this Commission. With this background the maintainability of the complaint is doubtful. The conclusion is that there is no merit in this case and it is hereby dismissed.

4. ANNOUNCED. The order be communicated to the parties free of charges. Complaint dismissed.