

(2011) 05 NCDRC CK 0077

In the National Consumer Disputes Redressal Commission

PSPCL Head Office At The Mall, Patiala Punjab

APPELLANT

Vs

Karnail Singh Kooka

RESPONDENT

Date of Decision : 02-05-2011

Acts Referred:

Citation : 2011 0 NCDRC 720

Hon'ble Judges : V.B.Gupta , Suresh Chandra J.

Advocate : Jayant K.Sud , Atul Sahi , Aman Raj

Judgement

1. BY way of present revision petition, there is challenge to the order dated 13.12.2010 passed by State Consumer Disputes Redressal Commission, Chandigarh (Punjab) (for short State Commission) vide which the appeal filed by the respondent/complainant was allowed.

2. BRIEF facts of the case are that respondent/complainant is a farmer and having less than 5 acres of agricultural land. Petitioner vide advertisement invited applications upto 30.3.2007 from marginal farmers, having agricultural land upto 5 acres for the release of the tubewell connection. Later, date was extended upto 17.4.2007. Respondent/complainant submitted his application alongwith affidavit on the prescribed proforma on 1.4.2007 and was asked to deposit Rs.4,000/-. He deposited the same on 18.4.2007 for new AP connection. Petitioner again extended the period of C.C. No. 22 of 2007 dated 30.5.2007 under Para V for small and marginal farmers, who did not have any tubewell connection in his name anywhere in the State of Punjab or exist in the waiting list of PSEB under general category or any of the priority categories. 50% of the allotted quota for each zone was to be released under this priority to small and marginal farmers eligible for claiming this priority. Further, vide Circular No. 59/07 dated 16.10.2007, petitioner decided to allow the consumers to submit the affidavit that they do not have any other connection in their name. Petitioner, vide Circular No. 22 of 2007 fixed the target to release the tubewell connection during the period 1.6.2007 to 31.5.2008. Allegation of respondent is that petitioner till date did not give any response to his application and violated the

seniority list, while releasing the new connections to those applicants, who applied after him. The act of the petitioner was deficiency in service and the complaint was filed praying that petitioner be directed to release the tubewell connection immediately and also prayed that Rs. 75,000/- be awarded as compensation.

Petitioner in its reply took preliminary objection stating that the complaint was not maintainable and there was no deficiency in service on their part. Respondent had applied for the tubewell connection on the basis of C.C. No. 22 of 2007, which relates to tubewell policy for the year, 2007-08, but it was not understood by him that the same relates to the pending test reports. The policy for the release of tubewell connections during the year 2007-2008 has been considered and decided. Above circular says that a target has been fixed, which shall cover pending test reports as on 31.3.2007. The circular further says that small and marginal farmers, who were having total land of 5 acres in the State of Punjab and do not have any tubewell connection in their name and are on the waiting list of PSEB shall be allowed the priority but the respondent was not on the waiting list because he had applied for 2 BHP AP connection on 12.4.2007. His application was not registered upto 31.3.1991 for which the circular in question relates. As such, respondent is not entitled for the tubewell connection on priority at this stage as per the circular in question.

3. DISTRICT Forum in its order dated 21.1.2010, observed that Circular No. 22 of 2007 dated 30.5.2007 and circular dated 16.10.2007 for release of tubewell connection for the year 2007-08 relates to the pending test reports only. As such, it was held that respondent was not eligible to get the tubewell connection at this stage and dismissed the complaint. It has been contended by learned counsel for the petitioner that AP connection were to be granted in accordance to the seniority list and not on out of turn basis. The seniority list under the scheme of Circular No.22 of 2007 was prepared as per the date of submission of the application and application of the test report and it was irrespective of the date of issuance of demand notice. The name of all those applicants in whose name the AP connection had been released prior to the respondent, was not due to any jump in the seniority list, but because they had applied prior to 31.3.1991 and were thus, entitled to the benefit of Circular No.22 of 2007. Respondent, as per his own admission has applied for connection as late as on 18.4.2007, and thus, he was not entitled to benefit under the said Circulars.

4. STATE Commission after perusing Circular No.22 of 2007 dated 30.5.2007, vide impugned order observed : 11. From the perusal of the above clause of the Circular, the small and marginal farmer is entitled for the release of tubewell connection, who had applied for the tubewell connection under the small and marginal farmer category and had submitted an undertaking, the format of the same is given in the Circular upto 17.4.2007 to the concerned Sub Division of PSEB for release of tubewell connection on non-judicial stamp paper worth Rs.15/-. 12. It is admitted by the respondent in para No.1 of the preliminary

objections that the appellant applied for the tubewell connection on 12.4.2007 and deposited Rs.400/- as registration fee with the respondent for the release of tubewell connection of 2 BHP and it is also not denied by the respondent that the appellant had not submitted the undertaking as required under Circular No.22 of 2007. The copy of the undertaking is Ex.R-2 attested on 11.4.2007 by the Executive Magistrate, Samrala tendered into evidence by the respondent itself. 13. There is no ban imposed upon the small farmers for the release of tubewell connection, whose name was not registered before 31.3.1991. This condition was imposed only on the applicants, whose applications were registered upto 31.3.1991. It was also directed in the Circular No.22 of 2007 that 50% of the allotted quota for the release of tubewell connection for each zone shall be released under this priority to small and marginal farmers eligible for claiming this priority. State Commission also considered Circular No.59/2007 dated 16.10.2007, which was issued by PSEB and which was tendered into evidence before District Forum by petitioner, as Exb.C-4 and observed ; 15. From the perusal of the above Circular also, there was no cut of date of 31.3.1991 for the release of the tubewell connections to the small and marginal farmers. 16. The interpretation of the respondent regarding the release of tubewell connection to the small and marginal farmer that only the applicants, who had applied and registered before 31.3.1991 were eligible for the release of the tubewell connection on priority basis is not correct. 17. The respondent has also not maintained the seniority list as per the instructions of the Circulars No.22 of 2007 dated 30.5.2007. Much reliance has been placed by petitioner on the seniority list purported to have been prepared as per the instructions of Circular No.22 of 2007 dated 30.5.2007, but the same has not been placed on record. Since, the seniority list is not before us, we find no reason to disagree with the findings of State Commission, that petitioner has not maintained the seniority list, as per the instructions of Circular No.22 of 2007.

5. UNDER these circumstances, there is no illegality or irregularity in the impugned order passed by State Commission. The present petition is without any merit, and the same is hereby, dismissed with cost of Rs.10,000/-. Pending application is also stands dismissed.

6. PETITIONER are directed to deposit the cost of Rs.10,000/- in the Consumer Legal Aid Account of this Commission, within two months. In case, petitioners fail to deposit the said cost within the prescribed period, he shall also be liable to pay interest @ 9% p.a., till realization. List the matter for compliance on 8.7.2011.